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# Senate

The Senate met at 10 a.m. and was called to order by the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana.

## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Liberating Lord, as we look forward to our celebration of Independence Day, we renew our dedication to You. We praise You for the gallant and heroic women and men who were the heroes and heroines of the birth of our Nation. They were people who put their trust in You, followed Your guidance in the quest of life, liberty, and the pursuit of happiness, and fought for freedom for all.

Thank You for the sense of destiny they had, that this was to be a unique nation in the family of nations, a nation under You as only Sovereign. Yet when we look back over the 226 years of our history, we realize that each generation must rediscover true patriotism, live out the American dream, and battle for freedom of opportunity for all people, regardless of race or creed.

Lord, we depend on You as we seek to be worthy of the independence we celebrate. You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable MARY L. LANDRIEU led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, June 25, 2002.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Ms. LANDRIEU thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

## SCHEDULE

Mr. REID. The Chair will shortly announce we will be in a period of morning business until 10:30 today. That period of time is under the control of the majority leader or his designee. At 10:30, we resume consideration of the Department of Defense authorization bill, and from 12:30 to 2:15 we will have our weekly party conferences.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business not to extend beyond the hour of 10:30, with Senators permitted to speak for up to 10 minutes each, with the time under the control of the majority leader or his designee.

## WOMEN IN THE SENATE

Mr. REID. Madam President, I was here yesterday morning when the Senate convened. The Presiding Officer at that time was the Senator from Arkansas, Mrs. LINCOLN. This morning, the Senate is opened by the Senator from Louisiana, Ms. LANDRIEU. I mention that because I came here when we did not have many women Senators. It adds such a bright light to the Senate to have these strong, good, women serving the country. One out of every five Democrats in the Senate is a woman. That is going to increase. It will be one in four, one in three, then it will be even, and, who knows, maybe one day women will be in the majority.

I applaud the people of Louisiana for sending to the Senate MARY LANDRIEU, who has added so much in her 6 years here.

## MEASURE PLACED ON THE CALENDAR—S. 4931

Mr. REID. Madam President, it is my understanding H.R. 4931 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask H.R. 4931 be read for the second time.

The ACTING PRESIDENT pro tempore. The clerk will read the title for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 4931) to provide that the pension and individual retirement arrangement provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent.

Mr. REID. I object to further proceedings on this bill at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. I have asked permission to speak for up to 10 minutes as in morning business.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

Mr. BINGAMAN. Madam President, I will speak on two subjects. First, the pension issue that I have talked about several times on the Senate floor in recent weeks. We have some information that I will share with Members about the extent of that problem. We hope before the end of this week we will have some legislation to propose to begin addressing that problem.

The other subject is the U.N. population fund. I ask that the Chair please advise me when 5 of my 10 minutes have been consumed.

The ACTING PRESIDENT pro tempore. The Chair will do so.

## PENSION REFORM

Mr. BINGAMAN. Madam President, the retirement system in this country leaves a great deal to be desired. We have many people who do not have adequate income when they reach the age of retirement. We have some charts that make that case. These charts are based on the 1999 U.S. census current population survey. They make the case fairly strongly.

This first chart is titled ''Private Workers Who Participate in an Employer Sponsored Plan,'' and breaks down the population by race and ethnicity. When we look at all workers as of 1999, there were 44 percent of the private workers who participated in the employer-sponsored plan, looking at the entire population. Among white, non-Hispanic workers, there were 47 percent or nearly half of the population that had some sort of employer-sponsored plan. That means a little over half did not. This chart does not include the public-sector employees or the self-employed workers.

For other minority groups the numbers are substantially less. For black, non-Hispanic, it is 41 percent; for Asian Pacific islanders and other non-Hispanic, 38 percent; for other minority non-Hispanic, 35 percent; and among Hispanic workers, it is 27 percent. Therefore, 27 percent, slightly more than one fourth of the private-sector Hispanic workers in the country, have an employer-sponsored plan.

That is important in my State because we have a large Hispanic population. When you look around the country and ask, where is the problem the worst as far as inadequate retirement coverage, my State is No. 1 in the Nation for the number of private-sector workers that do not have coverage.

The second chart demonstrates the percentage of private-sector workers who work at companies that provide after retirement or a pension plan. This chart talks of the companies employing these workers.

Madam President, 58 percent of all employees work for employers that provide some kind of plan. But then the numbers decline. Among white non-Hispanic, it is higher, and 62 percent of those employees work for companies that provide some kind of retirement plan; among Hispanic workers, only 40 percent of Hispanic workers nationwide work for companies that provide some kind of retirement plan. So this is a significant concern and a significant part of the problem as well.

The third chart illustrates the percentage of employees who participate in an employer-sponsored plan when the employer actually offers the plan. This is an assessment of how many people actually take advantage of this plan, in these different groups, once they have the opportunity. Among all workers, 75 percent nationwide will participate and have participated in an employer-sponsored plan if it is offered. Again, it is a little higher for white, non-Hispanic workers—up to 77 percent. Among Hispanics, it is 68 percent.

The interesting aspect about this is it is much less of a spread between the average, the ''all worker'' category, 75 percent, and the Hispanic, which is 68 percent, which makes the obvious case that Hispanic participation is not significantly different from that of the rest of the population when they are offered a plan.

The final chart pulls all this data together, puts it all in one place so we can understand it.

The ACTING PRESIDENT pro tempore. The Senator has consumed 5 minutes.

Mr. BINGAMAN. I appreciate the Chair's information.

While it is not conclusive, it does indicate that if Hispanic workers do have jobs where the employers offer some type of plan, they tend to participate. Unfortunately, the data indicates that Hispanics tend to work for employers who do not offer retirement plans. What we need to do is get more employers to offer retirement plans, particularly small employers. That is what the legislation we are developing right now is intended to do. I will be proposing that later.

I urge my colleagues to look at this issue seriously. I hope we can introduce a bill before the week is out.

## UNITED NATIONS POPULATION FUND

Mr. BINGAMAN. Madam President, now I will focus on the U.N. population fund. Last year I voted for the Foreign Operations conference report. I thought the funds provided there were inadequate to meet our pressing needs as we talked about them, but I recognized that the roughly $15 billion would provide help to millions of desperately poor people around the world and at the same time help improve the short-term and long-term security of our own country. I voted for that bill.

Here we are 7 months later and some of the most important funding provided in that bill, the $34 million provided for the U.N. population fund, is still sitting at the Department of Treasury. It is not helping poor people. It is not helping to make America more secure. It is just sitting at the Treasury Department.

The United Nations population fund works in over 150 countries, where it helps give women around the world access to reproductive health care and family planning services as well as services to ensure safe pregnancy and delivery. This population fund, the U.N. population fund, plays a critical role in helping prevent the further spread of AIDS. The withholding of U.S. funds, which is what we as a country are engaged in right now, only exacerbates the general inadequate health of poor women worldwide. It leads to more unwanted pregnancies and to deaths of more and more women during childbirth.

Last fall, the Bush administration provided an extra $600,000 to the U.N. population fund to help women in Afghanistan, and these funds were very welcome and were certainly used, substantially to provide safe birthing kits, which are very important. They were also used to open and upgrade maternity hospitals, which is very important.

I want to make clear that the population fund does not perform abortions. It does not support the performing of abortions in any way. Anyone who suggests that they do has not studied the situation in depth.

The House of Representatives passed a conference report on the fiscal year Foreign Operations bill which included $34 million for this purpose. It was an overwhelming vote. The Senate approved $40 million for this purpose, also with a lopsided vote. But now, because of hearsay, because of unsubstantiated allegations that have been disproved many times, the administration is holding up this critically important funding.

It is the most desperate women in the world who are adversely affected by this action; it is not the United Nations itself. The women who would benefit from this funding are the most adversely affected.

I believe very strongly that the administration has been willing to follow the law and speed the appropriation of funds for these purposes in the past. I cannot understand why we are not moving ahead this year. The emergency supplemental appropriations bill that is presently being conferenced provides an excellent opportunity for us to resolve this issue.

I urge the Senate conferees to ensure that language included in the supplemental passed in the Senate be included in the conference report. That language requires that this money, the $34 million that was appropriated last December, be released unless the President certifies by July 10 that doing so would violate U.S. law.

This is fair. More important, it is the intent of Congress. It is the law of the land. I urge the administration to follow through in the conference.

I will be glad to yield to my colleague, but I believe my time has expired.

Mr. REID. I say to the Chair, this half hour is under the control of the Democrats. It is the minority's time this morning so we have whatever time we need, I say to my friend from New Mexico.

I ask my friend two questions. The first is on pension reform. The Senator is the leader of a task force appointed by the majority leader. I acknowledge the fine job he has done.

Would the Senator indicate if it is true that a lot of attention has been focused on pensions and how employees are treated as a result of the Enron debacle?

Mr. BINGAMAN. Madam President, in response to the question of my friend from Nevada, that is exactly right. I think the entire country was appalled to see what happened to the pension savings, the retirement savings of various Enron employees when that company collapsed. Accordingly, we have spent a lot of time discussing how to ensure that these funds that are in a pension fund for a worker can be safeguarded so we can avoid this situation in the future. That part of the problem has gotten a lot of rhetorical attention, at least. We have still not taken the necessary actions to solve it. I hope we are able to do that in the next few weeks as we consider the legislation that has come out of the Health, Education, Labor, and Pensions Committee, and also legislation that is, I understand, going to be marked up in the Finance Committee.

Mr. REID. Would the Senator also acknowledge what people are saying, that it seems so unfair that people who were working at Enron, who weren't so-called bosses, wound up with very little, whereas the bosses, the corporate leaders, ended up with millions and millions of dollars? Isn't that something they are talking about in New Mexico?

Mr. BINGAMAN. Madam President, in response to the question, it certainly is something that is a great concern in my State. I think people tend to lump all these issues together, understandably, because they are all part of a very much larger problem. One is the inadequate protection of the retirement savings of workers. Another issue is the inequity in compensation between the top officials of some of these corporations and the average worker. A third is the very unfair severance package arrangements that are made when some of these companies go bankrupt.

How does it happen that the top officials wind up getting severance packages, in spite of the financial difficulties of the company, while the people at the very bottom get virtually nothing?

Mr. REID. Madam President, let me ask the Senator from New Mexico, the chairman of the task force, it is true, is it not, that one of the things you are working on is legislation in conjunction with the committees of jurisdiction to make sure that in the future when this takes place there will be equity as far as employees are concerned?

Mr. BINGAMAN. Madam President, in response to that, we are trying to figure out what can be done in this regard. We essentially do not think Government should be dictating at what level companies compensate workers. But we do think the various laws we pass in Congress should be written in such a way that we don't provide additional benefits for extremely lavish compensation to high officials and inadequate compensation to people who are working every day in the bowels of these companies.

Mr. REID. I also say to the Senator, based on the second part of the statement he made, I congratulate, commend, and applaud the Senator from New Mexico for bringing to the Senate's attention something that has been going on now for several years; that is, the inability of the United Nations to help poor women around the world with just basic information and educational opportunities as to why they get pregnant, and as to why they are not taken care of when they are pregnant. But does the Senator acknowledge that this has turned into some abortion issue that has nothing to do with family planning on the international scene? Is that true?

Mr. BINGAMAN. Madam President, my response to that question is the Senator from Nevada is exactly right. I think there is important assistance that the overwhelming majority of the House and Senate would like to see provided worldwide to these poor women who need assistance to deal with their very real issues of giving birth and planning their families for the future. We have appropriated money. That money has been appropriated now for 7 or 8 months, and it is sitting at the Department of the Treasury. I don't understand why they can't go ahead and spend that money as it was intended. I hope very much that happens in the very near future.

Mr. REID. I say to my friend from New Mexico, if someone is really concerned about abortion, it would seem to me they should consider ways to help women be educated so there are less unintended pregnancies. Isn't that one of the main goals of international family planning?

Mr. BINGAMAN. Madam President, in response to that question, that is clearly my understanding of the main goal of international family planning. It is a worthwhile goal. I think clearly we do not want desperately poor families and desperately poor women to find themselves with unwanted pregnancies because of lack of information. What we are trying to do is get assistance to this population fund so that we can provide good information and assistance to these desperately poor women.

Mr. REID. Will the Senator also acknowledge that where we have had international family planning in the past healthier babies are born and less babies are born? Is that a fair statement?

Mr. BINGAMAN. Madam President, again, in response to the question, I believe there is a record of success with many of these programs, and with many of the efforts that have been made to this population fund. I think it makes good sense for the United States as the largest, most prosperous country in the world to participate with other countries—with our friends and allies around the world—in supporting this effort. That is all we are trying to do. Our support is not overwhelming as compared to a lot of countries. But it is important, and we should provide it.

Mr. REID. I also ask my friend, is it not true that the Congress, in good faith, has appropriated these moneys, and now they are being held up by the administration?

Mr. BINGAMAN. Madam President, in response, that is certainly my information. My information is that the money was appropriated, and that it was appropriated last December when we passed the foreign operations appropriations bill. There is no reason that money should not be released for the intended use. That is what the law requires. I hope very much that the administration will move ahead. We are fast approaching the date when we are going to do another foreign operations appropriations bill. I don't think we serve the intended purpose by just delaying and delaying the use of these funds.

Mr. REID. It is fair to say, is it not, that each day that goes by there are more people around the world and more women around the world who have this lack of information and unintended pregnancies and complicated pregnancies that could be helped by virtue of these moneys if, in fact, they were coming forward.

Mr. BINGAMAN. Madam President, again, in response to the question, I think it is easy for us to believe, when we are sitting here in a nice air-conditioned Senate Chamber, that there is no urgency and think these are all sort of theoretical problems out there and there is no urgency in getting about trying to deal with them. I think the reality is very different for a lot of the women to whom my friend in Nevada is referring.

The reality is they have to either have assistance now or live with the consequences of not having the assistance. For that reason, I think it is very important we move ahead immediately.

Mr. REID. Madam President, I yield the remainder of our time to the Senator from Montana, Mr. BAUCUS.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 4 minutes.

Mrs. HUTCHISON. Madam President, parliamentary inquiry: I wanted to know how much time there is in morning business, and if there is any time

for the Republican side in morning business time.

The ACTING PRESIDENT pro tempore. There are 4 minutes remaining. There is no time reserved for the minority side.

Mr. WARNER. Madam President, parliamentary inquiry: I would like to request of our leader—I am endeavoring to reach Senator LEVIN. I understand he will soon be available to give me some guidance as to what he desires as Chair. We are anxious to move ahead on this bill. I realize certain of our colleagues have extremely sensitive matters to speak to—the tragic wildfires experienced out West and the Amtrak situation. I am not sure what my good friend from Montana is going to address. But, at the same time, I am hopeful that with the support of our leadership, we can outline a course of action today so the Kennedy amendment—I spoke to Senator KENNEDY late last night—can be voted on at a time that is convenient, preceded by, say, maybe 30 minutes of final remarks by Senator KENNEDY and our side; that we are able to go to the missile defense amendment, which I shared with the chairman last night; and, that we have today at least, say, 4 hours of debate on that with the hope we will vote this afternoon somewhere around 5 o'clock.

Mr. REID. Madam President, I would say to my friend, the comanager of this bill, that Senator LEVIN isn't due here until 10:30. We are supposed to take up the Defense bill at 10:30.

Mr. WARNER. Madam President, I am not hearing the Senator.

Mr. REID. That is when we are supposed to take up the Defense bill. He will be here at or about 10:30. We, through staff, asked last night if the Republicans wanted any time for morning business. They said they didn't want any; they have a conference this morning. That is why the one-half hour was devoted to the Democrats. Had they wanted more time, we would have come in one-half hour earlier.

I ask unanimous consent that—we used all of Senator BAUCUS' time in this colloquy—Senator BAUCUS will be recognized for up to 5 minutes to speak as if in morning business.

I say to my friend from Virginia if Senator HUTCHISON and Senator CRAIG wish time, I am sure Senator LEVIN would have no problem giving them 5 minutes each. Is that fair enough?

Mr. WARNER. I think that is fair enough.

Mr. REID. Following the statement of the Senator from Montana, I ask unanimous consent that the Senator from Texas be recognized for 5 minutes, and following her the Senator from Idaho be recognized for 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. WARNER. Reserving the right to object, I think that is a very good reconciliation in the interest of time. But let us say we would return to the bill at 10 minutes to——

Mr. REID. Why don't we return when we finish the morning business, which would be about a quarter till?

Mr. WARNER. That is fine.

Mr. BAUCUS. Madam President, reserving the right to object—I ask the indulgence of my friend—if I could have about 7½ minutes.

## EXTENSION OF MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent—we are extending the time anyway—Senator BAUCUS be recognized for 10 minutes—Senator HUTCHISON, is 5 still satisfactory?—and Senator CRAIG, 5?

Mr. CRAIG. Five plus two.

Mr. REID. Seven for the Senator from Idaho, and following that, we would resume the Defense authorization bill.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Montana shall proceed.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 2678 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BAUCUS. Madam President, I yield the floor and thank my friends from Texas and Idaho for their indulgence.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Texas is recognized for 5 minutes.

## AMTRAK

Mrs. HUTCHISON. Madam President, I rise today to talk about Amtrak. Our Amtrak national rail passenger system is teetering on the brink of bankruptcy. They have said they need $200 million in operating cash or the entire system will grind to a halt very soon. The effect of such a shutdown would be devastating.

With the Independence Day weekend approaching, and the number of airline flights slashed since September 11, families throughout the Nation are counting on Amtrak to get them to their destinations. If Amtrak is not running, those families will add to the millions of cars already expected to crowd our Nation's highways.

Amtrak has already received more than 100,000 reservations for the holiday weekend. Reservations account for about half of Amtrak's expected passenger load.

I have noticed from articles in the paper that people are already beginning to question whether Amtrak service is going to be there, so they are already suffering cancellations, which adds to the deficits we already have.

I have always been a supporter of Amtrak, but sometimes it has been hard because Amtrak has not really come to grips with the inefficiencies in the system. I hope Mr. Gunn, the new CEO of Amtrak—and I appreciate so much his willingness to come in and take over this railroad operation at this time—will make a difference. He has already fired mid-level managers. Certainly, I think anybody looking at the labor situation in Amtrak would realize that the rail unions really are out of line with other workers in our country. Amtrak has never engaged in tough negotiations with its unions, even 4 years ago, when we were trying to reauthorize Amtrak. As a result, labor costs are out of line with other workers in our country. A 5-year severance package for Amtrak employees, as in other rail unions, is way beyond the norm for most union workers or other workers in our country.

I do hope the unions will work with us to try to bring efficiency in both management, administration, contracting out, and overall severance packages that are in an alarming condition and have put us in such a precarious situation.

Amtrak has not come forward with its true financial condition in many instances. Mortgaging Penn Station last year was quite irresponsible. I didn't like it at all. I think we should have met this head on.

On the other hand, there are some Members of Congress who have been so recalcitrant about Amtrak; I can understand Amtrak's unwillingness to come and bare its financial soul to Members of Congress when they know they are going to get their heads chopped off.

We need to step back and take a responsible approach. We need a passenger rail system. It is part of a multimodal system that will serve the needs of all of the people. A skeleton that would go across the top of our country, down the west coast, across the bottom/southern part of the country, up to the east coast with one line right down the middle would give us a solid national rail system where States could then form compacts and feed into those systems. In my State of Texas, the DART, the Dallas Area Rapid Transit, is feeding its train into the Amtrak system.

Those are the possibilities we have if we know we have a dependable national rail passenger system. This means a whole system. It does not mean just the Northeast corridor.

One of the problems we have had is the rest of the system has been starved year after year while the Northeast corridor has gotten the lion's share of funding. We must acknowledge once and for all this is going be a national system. We are all going to be in this together.

All of us who believe in a national rail system should say: This is not going to be a piece of a system that is subsidized heavily and another piece that isn't. We need to consider it as a system. We need to fund it well.

Some people have said: We have to subsidize Amtrak too much. We have been subsidizing Amtrak to the tune of $520 million annually; whereas we have subsidized highways to the tune of $30 billion, and $10 billion per year on aviation.

I ask unanimous consent for an additional 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. We have seen the subsidies. Some are user fees but some are not. We just bailed out the airline industry because we knew it was essential for our economy. In Texas, we send billions of dollars to the highway trust fund. We get 88 cents on the dollar back. We are subsidizing other States' highways.

I don't mean that I want Texas to have to get 100 percent. Our National Highway System is built on a national system concept. That is what we need for Amtrak. We need to say: Yes, some States are getting more than others. Maybe States should step to the plate more. I would be willing to say that my State should step to the plate and help in these subsidies, just as I think every State that receives service should. That would be a worthy reform.

The bottom line is, this should be a national system that we support as part of our national security, our homeland security, a multimodal system that provides transportation for all the people of our country in a convenient way and in a way that is most necessary.

We have aviation; we have highways. Rail is an important third part of our overall transportation system.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho is recognized.

## WESTERN WILDFIRES

Mr. CRAIG. Madam President, I rise this morning—and I will return tomorrow and the next day—to talk about a story and a saga playing its way across the western landscape that you and I watched yesterday and on the morning news. We saw the headlines in all of the papers that said, Monstrous Wildfires Near Arizona Town; Show Low, Arizona, and The Thousands of Citizens Who Live There at Risk.

What I want to do for a brief period is stage this as the great John Wayne movie ''Rio Bravo,'' where John Wayne captures the outlaw Joe Bernadette and sticks him in jail waiting for the judge to get the town to try the outlaw. It is the saga of the white hats and the black hats.

For two decades we have been playing the white hat and the black hat game when it comes to the management of our western public lands and especially the timber lands of the West.

In the early 1990s, scientists came together and said: ''If we don't begin a concerted effort of active management and fuel reduction on the floor of western great basin forests, they will burn in wildfire.'' That is an exact quote, well over a decade ago, when the experts saw that the lack of management and the shutdown of our public lands would some day spur us into wildfires.

Not only did it spur us into wildfires, the scenario those scientists did not plug in was that during the decade when we shut the public lands down, all in the name of the environment, we began to inhabit them. Every little piece of land that was nonpublic got a beautiful home built on it, as people wanted to retreat into what we called the urban-wildland interface, to have their little piece of that wild west that was left staged in the movie of ''Rio Bravo.''

The great tragedy is, there is no wild west today. It is an urbanizing West with thousands of people in it wanting to live in those lands that have built up fuel loads on the floor of the forests that are equivalent to tens of thousands of gallons of gasoline per acre.

You and I have seen on the television the last few days the monster fire of Arizona that consumed Heber, AZ, that now has taken over 325 homes, that may take Show Low, AZ, today, rolling on across the landscape, burning up those thousands of gallons of equivalent fuel per acre on the ground. This is so dramatic, the President flies out today to view the carnage.

It isn't just the homes that are gone. It is the landscape that is gone. It is the wildlife habitat. It is the watershed—all gone, not for 5 years, not 10 years, but in the arid Southwest gone for 100 years. Why? Because man in his infinite wisdom said, two or three decades ago, all in the name of the environment, that we would no longer enter the forests. We would no longer thin the forests. We would no longer clean the floors, all in the name of leaving the land alone.

Now we go to Colorado, Durango, CO, where a fire is just a few miles from that beautiful mining town. Between Colorado and Arizona and New Mexico, we have lost over 507 homes this year, this spring. It isn't even summer yet. It isn't even late summer. It isn't the late July and August of the hot weathers of the Great Basin timeframe in which most of these lands normally burn.

If this were a tornado, if this were in Louisiana or across Florida, it would have wiped out an entire landscape and thousands of homes or hundreds of homes would be gone and we would have a national disaster. We would have all kinds of focus on it, how tragic it is. But somehow this has gotten less attention, even though the West is filled with smoke today.

It should never have become a white hat/black hat issue. But for two decades, it became that. Right here on the floor of the Senate that very issue got debated. It was them versus us, the chain saw versus Bambi. Bambi won. Now Bambi is losing. Bambi's home is gone. The place she sleeps is gone. The place she drinks her water is gone. The wildlife are in danger—in an area in Arizona where two fires came together, over 300,000 acres. That is an area that is 500 miles square, as big as the whole L.A. Basin. If that is not a national disaster, I don't know what is. That is just Arizona.

Madam President, 1.5 million acres have all burned in the Great Basin West this year, and here we are just in the last days of June. At this time in 2000, 7.3 million acres burned in the West, and we have already forgotten about it; we had only burned 1.2 million acres.

Well, the story will be continued. Let's call this ''Rio Bravo.'' Let's call this a time when America comes together to refocus its intent on public land policy. I am going to be back with charts and maps tomorrow to visit with my colleagues about this national crisis that burns its way across the landscape of Arizona, New Mexico, and Colorado because what I am fearful of is, come late August, it will be in my home State of Idaho, which lost a million acres of land in 2000, and nobody talked about it because it was in the back country and with no homes burned. There was no national television coverage to watch a smoldering home. But Bambi lost her home, and Bambi's cousins lost their homes, and a million acres in Idaho today will be decades in coming back.

So why don't we get real and recognize that in managing our public lands there must be a balance. It cannot be either/or or all or nothing because when that happens, Mother Nature is not always the best steward of the land. Today in Arizona, Mother Nature is making headlines and she is calling herself Monster Wildfire. That is Mother Nature, but not in her finest hour.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2514, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Kennedy amendment No. 3918, to provide for equal competition in contracting.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. REID. Madam President, the two managers of the bill have asked that I propound a unanimous consent request.

I ask unanimous consent that the pending Kennedy amendment be temporarily set aside and that the Senate resume its consideration at 12 today and that at that time there be 30 minutes of debate equally divided on the Kennedy amendment. That would terminate at 12:30 when we recess for the party conferences. The time would be equally divided in the usual form prior to a vote in relation to the amendment at 2:30 today. The time from 2:15 to 2:30 would also be equally divided in the usual form. Further, there would be no amendments in order prior to the Kennedy amendment at 2:30 with the exception that Senator WARNER be recognized for a motion to table the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. There will now be general debate on the bill. From 12 to 12:30, the time will be spent on the Kennedy amendment equally divided. When we come back from the party conference at 2:15, there will be an additional 15 minutes equally divided, with the vote occurring at 2:30 on the Warner motion to table the Kennedy amendment.

Mr. WARNER. No objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Madam President, very briefly, we are making progress on the national Defense authorization bill. We have the pending amendment of Senator KENNEDY which will now be voted upon with a motion to table at 2:30. We expect we will at that point begin a debate on missile defense, but the process is not yet worked out for the amendments relative to that as to the order and how they will be offered. There will be some discussion on that matter between now and then. We are working with Senators on the amendments to see if we can act on amendments later today and possibly clear amendments. I continue to be optimistic, with our leader's assistance, with the cooperation of all Senators, that we can complete action on this bill in a timely manner this week.

My good friend from Virginia, the ranking member of our committee, is working hard to achieve that same result.

Mr. WARNER. I have worked with my leader with regard to the unanimous consent that was adopted. I will not send my amendment to the desk, but I intend to initiate debate.

As I understand from the chairman, there will be a rejoinder on the other side and we will proceed on this issue until the hour of 12 o'clock. It is also my expectation that the chairman and I, with our respective leaders, Senators DASCHLE and LOTT, will meet prior to the caucuses for the purpose of establishing a procedure by which my amendment is to be sent to the desk and considered by the Senate. Am I correct?

Mr. LEVIN. There is an intention, as I have shared with my colleague from Virginia, to offer a second-degree amendment to that amendment. That is what we will be discussing with the leaders between now and 12 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I don't know that that was in the form of a unanimous consent request.

Mr. LEVIN. No.

The PRESIDING OFFICER. It was not a unanimous consent request.

Mr. WARNER. I simply stated for the convenience of the Senate the procedure we will follow between now and the hour of 2:30, at which time I will be recognized for the purpose of tabling the Kennedy amendment.

I encourage colleagues on my side to come forward. I know Senator ALLEN is anxious to speak to the Kennedy amendment, as are Senator BOND and Senator FRED THOMPSON. There will be concluding remarks by our distinguished colleague from Wyoming. That will take place from 12 to 12:30 and again from 2:15 to 2:30.

At this point in time, I will address the question of missile defense in the amendment I intend to submit to the Senate. Since I will not now send it to the desk, I will read it. This is an amendment proposed by myself, Mr. LOTT, Mr. STEVENS, Mr. COCHRAN, Mr. ALLARD, Mr. KYL, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. THURMOND, Mr. SESSIONS, Mr. ROBERTS, Mr. HUTCHINSON, Mr. BUNNING, Mr. HELMS, Mr. MCCAIN, and Mr. NICKLES.

I read the amendment as follows:

On page 217, between lines 13 and 14, insert the following:

**SEC. 1010. ADDITIONAL AMOUNT FOR BALLISTIC MISSILE DEFENSE OR COMBATING TERRORISM IN ACCORDANCE WITH NATIONAL SECURITY PRIORITIES OF THE PRESIDENT.**

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts authorized to be appropriated by other provisions of this division, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2003, $814,300,000 for whichever of the following purposes the President determines that the additional amount is necessary in the national security interests of the United States:

(1) Research, development, test, and evaluation for ballistic missile defense programs of the Department of Defense.

(2) Activities of the Department of Defense for combating terrorism at home and abroad.

(b) OFFSET.—The total amount authorized to be appropriated under the other provisions of this division is hereby reduced by $814,300,000 to reflect the amounts that the Secretary determines unnecessary by reason of a revision of assumptions regarding inflation that are applied as a result of the midsession review of the budget conducted by the Office of Management and Budget during the spring and early summer of 2002.

In simple language, it is annually the function of the Department of Defense to make certain assumptions with regard to those moneys that they require for purposes of, for example, pay, and other large cash expenditures in a fiscal year, the amount that inflation may erode the ability to pay those sums.

In this case, fortunately, this country has experienced a low inflation rate, lower than anticipated, and therefore there is remaining within the 2002 budget sufficient cash, in my judgment and the judgment of others working in the Department of Defense, to cover this amendment. Therefore, this amendment will not dislodge any of the programs or authorizations as now exist in the bill before the Senate. I make that clear. No Senator should think his or her programs which they have fought hard for as part of this bill will be reduced in amount as a consequence of this amendment.

The amendment I will submit, hopefully this afternoon, with the concurrence of the leadership, on behalf of myself and other Members whom I enumerated, is an important step to work directly on problems in the Defense authorization bill for fiscal year 2003 as reported out of the committee which have led many Republican committee members, including this one, to have no other possibility than to vote against a bill on which we had worked for the better part of a year.

That is a very difficult decision, when members of a committee, large numbers of members in our committee, working in a bipartisan fashion, chairman and ranking member together, formulate a bill, and then when it is brought to a markup session, we are faced with a realization that an element of that bill is so totally in opposition to what the Commander in Chief of the United States, namely the President, has sent to the Congress for the purposes of fulfilling his rights as Commander in Chief in the defense of this country. That decision faced by us, and a significant number of Members, forced members to vote against that bill that we worked on for a year. We did so because of the drastic cuts and the restrictions made to missile defense by a narrow margin of the majority in the markup session.

I recognize the importance of passing a Defense authorization bill during times of war with broad bipartisan support. It sends a clear signal of support to our men and women in uniform and expresses the commitment of the Senate to fighting the global war against terrorism in defending our homeland.

In order to have such broad bipartisan support, we have to pass a bill that supports our President—again, our Commander in Chief—and his fundamental priorities for defense. In its current form, this bill fails that test. The Secretary of Defense confirmed by a letter to the chairman that he will advise the President to veto the Defense authorization bill if the missile defense provision contained in our bill is adopted by the Congress.

This view is strongly reiterated in the statement of administration policy on our bill which notes that:

The administration's missile defense program is a carefully balanced effort to defend the American people, our deployed forces, and our friends and allies, against a growing missile threat. The provision of S. 2514 would undermine this critical defense effort.

What a tragedy for our Nation, what a tragedy for the Armed Forces, to see this precisely at this time, with our Nation at war, when we need to demonstrate consensus and support. Now is not the time to send a signal that we are lessening our resolve in defending this Nation from all known and recognized threats. We must be prepared as a nation. History will be our judge.

The amendment I will offer would restore the funding reductions to missile defense made during the committee's consideration of the bill. This amendment would provide an additional $814 million-plus to restore the funding taken from the President's request for missile defense during markup and allow the President the flexibility to spend the money for missile defense and activities of the Department of Defense to counter terrorism both at home and abroad.

That is very important. This is basically parallel to what we did last year on the Defense authorization bill. I will address that in greater detail momentarily, but it gives the flexibility to the President of the United States and his Secretary of Defense to allocate the $814 million-plus in accordance with those two objectives.

This is a reasonable compromise, I believe, to the position taken by the majority during the course of the markup. Again, it is identical in form to the compromise we reached last year on this issue.

At the outset of this discussion, I want to remind Senators present of a measure we passed in 1999 by a vote of 97 to 3, a measure that was subsequently signed into law by President Clinton, the National Missile Defense Act of 1999, referred to as the Cochran Act, as he was the principal drafter and sponsor of that very important law. The act is short and not very complicated. It does two things very clearly.

First, the Cochran Act establishes a policy of deploying, ''as soon as is technologically possible,'' an effective defense of the territory of the United States—that is all 50 States and the U.S. territories—from limited ballistic missile attack.

Madam President, 97 Senators are on record supporting that policy.

A second part of that law reiterates a longstanding policy that the United States will seek further reduction in Russian nuclear forces.

During the debate on this act, some contended that its two policy declarations have equal stature and status. Equal or not, I think all would agree both are important statements of policy. The amendment to include a statement of policy on arms reduction was offered because some Senators feared that deployment of a missile defense could lead to a new offensive arms race. But President Bush did not see any inconsistency in these two goals and has pursued both vigorously. He has made missile defense one of his top national security priorities, and he has dramatically—and, I would add, appropriately—expanded funding to expedite the development and deployment of those important defenses.

At the same time, he sought to restructure this Nation's relationship with Russia. He outlined this policy in a landmark speech at the National Defense University in May of 2001:

Today's Russia is not yesterday's Soviet Union. We need a new framework that allows us to build missile defenses, and that encourage still further cuts in nuclear weapons.

President Bush has since engaged Russian President Putin on a regular and intensive basis to move the Russian-American relationship beyond cold war hostility to one built on openness, shared goals, and shared responsibility. President Bush has been extraordinarily successful in this effort.

Last December, the President announced his intent to withdraw from the 1972 Anti-Ballistic Missile Treaty. This is a treaty which specifically prevented both Russia and the United States from developing and deploying effective missile defenses. Critics feared that President Bush's action would lead to a harsh Russian denunciation. In fact, Russia reacted hardly at all.

President Putin announced that the U.S. move was a mistake, but it would not affect the improved United States-Russian relationship.

Many missile defense critics feared that withdrawing from the Anti-Ballistic Missile Treaty would trigger a new arms race. Yet on May 24, at the summit in Moscow, President Bush and President Putin signed a landmark arms control agreement.

This breakthrough treaty, negotiated in a period of just several months, will reduce nuclear arsenals from their present levels of about 6,000 strategic warheads to 1,700 to 2,200 strategic warheads over the next decade. This is the most dramatic reduction in strategic weapons history.

Far from disrupting the United States-Russian relationship, withdrawing from the ABM Treaty and developing missile defenses have allowed us to develop defenses for the United States, its allies and friends, and its deployed troops, against the real and increasing threat of missile attack, while at the same time our relationship with Russia appears to grow in a positive manner.

So President Bush has taken to heart both policy statements in the National Missile Defense Act of 1999. He has made missile defense a high priority and is doing all he can to expedite the development and deployment of missile defenses. And he has achieved the goal of further reductions in Russian nuclear forces.

Now it is up to us, the Senate and the Congress, to do our part. The President has made a reasonable and balanced request for missile defense this year. The request of $7.6 billion is smaller than last year's request and smaller than last year's appropriated level.

The House of Representatives fully funded this request level. In fact, they have increased it slightly. Yet the bill of the Senate Armed Services Committee cuts over $800 million from the effort to develop and deploy missile defenses. Yes, against that background, our committee went ahead and cut $800-plus million.

This bill would impose reductions that impede progress, increase program risk, and undermine the effort to provide for the rapid development and deployment of missile defenses for our Nation, our allies and friends, and our soldiers, sailors, marines, and airmen deployed overseas. The administration asserts quite accurately, in my view, that the committee bill undercuts missile defense efforts:

. . . by severely reducing the program's workforce, significantly impairing DOD's ability to effectively integrate components currently under deployment, delaying boost-phase defense efforts, hindering early deployment contingent capability, undermining efforts to address countermeasures, and slowing key sensor programs.

That is the assessment of the Secretary of Defense.

The bill before the Senate would cut hundreds of millions of dollars from theater missile defense, programs to defend against short-, medium- and intermediate-range missiles.

That is the threat that is most identified as impairing the ability of our forward-deployed forces to pursue their missions without the threat of missile attack. These are the very missiles our troops faced in the Persian Gulf war over a decade ago, and we know well of the casualties that our forces, U.S. forces and indeed those of our allies, took as a consequence of the short-range Scud missiles fired indiscriminately by Saddam Hussein.

Today we have some improved defenses but not adequate defenses against these short-range weapons.

Last September we suffered a grievous attack on our Nation. Many lives and much property were lost in that attack. On that terrible day we also lost our uniquely American feeling of invulnerability. Homeland security is now, without a doubt, our top priority. Missile defense is an integral part of homeland defense.

The most recent national intelligence estimate on missile threats—that is January of this year—states:

The probability that a missile with a weapon of mass destruction will be used against U.S. forces or interests is higher today than during most of the cold war, and will continue to grow as the capabilities of potential adversaries mature.

George Tenet, head of the CIA, during his testimony to the Armed Services Committee earlier this year, made the point that missile threats have sometimes evolved much faster than

predicted and confirm the view expressed in the national intelligence estimate that I just quoted that both terrorism and missile threats must be taken very seriously.

I understand and respectfully disagree with those who argue that every dollar we spend on missile defense is one dollar we don't spend protecting our shores and harbors.

That is precisely what the defense of our Nation against missile attack does—protects our shores. It protects our harbors, our cities, our towns, our villages, and our people from the world's most terrible weapons.

As we did last year, this amendment would provide flexibility for the President to use the additional funds as he sees fit to defend this Nation from missile defense and the Department of Defense activities in counterterrorism. It is a discretion that is very much needed by the President and the Secretary of Defense. And it parallels exactly what we did last year.

I say to my colleagues that this amendment offers a reasonable compromise on an issue that has divided the Armed Services Committee for the past 2 years, and continues, regrettably, to divide the Senate. This is the same formula that we used last year to heal a serious rift in the committee and the Senate, and thereby bring the bill to the floor on a bipartisan basis.

I note that this amendment differs in one important aspect from the one we passed last year. Last year, we simply added $1.3 billion to the defense top line. This year, the amendment does not increase the administration's budget request. It does not put money on top. Rather, it takes advantage of the fact that the administration will conduct its annual midyear review of inflation assumptions, including those used to craft the defense budget request.

I have been assured that the new inflation savings that will result from this abuse will be more than adequate to cover this added amount for homeland defense. The amendment provides an offset based on these anticipated inflation savings.

I commend Chairman LEVIN for the statesmanship he displayed on the issue last year at the time I brought the amendment up which closed the rift between the aisles. Our bill came to the floor last September. The Pentagon and the World Trade Center were still burning, and we were about to embark on a war against the forces of international terrorism. Our distinguished chairman, Mr. LEVIN, used these eloquent words during the debate last year on this amendment:

> As important as the funding that we provide is, there is something else that is critically important. That is the unity of purpose that we showed as we entered into the current struggle. Debate on a bill such as this is an inherent part of our democracy. But, in one regard, we operate differently in times of national emergency. We set aside those differences we cannot reach.

I think the spirit of that very important statement by our chairman prevails today, and should be the guideline—the guiding factor—when each Senator eventually votes on this measure. Today, we remain at war, and that unity is just as important today as it was last September.

I urge my colleagues to vote for this amendment. It is a fair, balanced compromise offered in the same spirit of unity that moved us forward last year, and which can be the basis for moving us forward again today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I wonder if my friend from Virginia would clarify a few factual parts of his proposed amendment.

The Senator from Virginia said that he has been assured that the inflation savings which will result from the midterm review will be sufficient to cover $814 million. I am wondering where that assurance came from, because whichever approach we adopt, that is an important part. Where was that assurance? Who gave the Senator that assurance?

Mr. WARNER. Mr. President, I thank the distinguished chairman. I went to the Department of Defense early one morning around 7:30 or quarter to 8 and spent the better part of an hour with the Secretary of Defense and his top budget people. I wanted to make certain that if I were to formulate this amendment along those lines—I concede to the chairman that it was my idea, and it caught them a little bit by surprise—the Secretary said he would like to consider it. That he did. He went back in his own internal system and eventually he conveyed to me the message that the amendment as I have given him in draft form would be acceptable to him and the administration.

I did concur that the calculations to be performed by the President's Office of Management and Budget would enable this amendment to authorize those funds.

Mr. LEVIN. The $814 million that the Senator assumes in his amendment may or may not materialize, if the midterm review is not completed. But has the Senator from Virginia, as I understand it, been assured at this point prior to the midterm review that those savings will be forthcoming in inflation review?

Mr. WARNER. Mr. President, these are very good questions. I want to answer them very precisely.

The midyear review to which the Senator referred conducted by OMB is in progress. He is correct. While the review is not formally complete, we have been assured—that is, this Senator has been assured by the administration—that the revision of the inflation assumptions will—I repeat ''will''—provide ample funds to cover the additional allocation for missile defense and DOD activities to combat terrorism as framed in the amendment.

Mr. LEVIN. One further clarification: That came directly from the Secretary of Defense.

Mr. WARNER. That is correct.

Mr. LEVIN. If it turns out otherwise when the midterm review is completed, despite that best estimate on the part of the Secretary of Defense, will the amendment still authorize the expenditure of that $814 million in the ways specified? In other words, if it turns out to be inaccurate and there is only $600 million in savings, am I not correct that the amendment would nonetheless authorize the $814 million?

Mr. WARNER. Yes. On its face, it would do so. In the interim, I say to the chairman, the appropriations process will have a chance to review the midterm OMB analysis.

Mr. LEVIN. But the Senator's amendment, as I understand it, is not contingent on that amount of inflation savings being available. Is that correct?

Mr. WARNER. It is not contingent; that is correct.

Mr. LEVIN. And if the net savings turned out to be $400 million instead of $814 million, then would the Secretary be required to make cuts in other programs?

Mr. WARNER. Madam President, that is a question that I would reserve for the moment. But I am confident that option will not occur. If I may——

Mr. LEVIN. Because the Senator from Virginia is confident?

Mr. WARNER. That is correct.

Mr. LEVIN. The savings——

Mr. WARNER. Are going to be sufficient.

Mr. LEVIN. But my question is—if it turns out otherwise, there have to be cuts made somewhere, under the Senator's amendment, as he has just responded. He is not adding any money, so there must be cuts made somewhere. And those cuts, of course, could then come in areas that we have tried to protect, including operations and maintenance, readiness, and a number of other areas of which this committee has been very protective.

One of my concerns about the language of this amendment is that it is not contingent upon savings being available. It assumes those savings are available. And whether or not they are forthcoming, this money is authorized, as I understand it. So that is one of the concerns I have about this amendment.

Mr. WARNER. Madam President, I want to be extremely careful in my response. I will be meeting with the Secretary of Defense in about an hour's time. I want to clarify the chairman's question by asking it directly to him and providing the Senate, this afternoon, as this debate continues, a clear response to the chairman's question.

If I might add a bit here about this process, the administration uses certain inflation assumptions in building its budget, including its defense budget, to assure that the Government can buy the goods and services it needs. If inflation is lower than anticipated, the budget request is a little higher than needed to buy the required goods and services.

When a midyear review determines the inflation rate is lower than anticipated, the Secretary of Defense identifies budgeted funds that are no longer required as a result of the inflation—they refer to it as a bonus. Since they are deemed to be excess, there is no programmatic impact resulting from the inflation savings being used.

What happens if the new inflation assumptions are wrong and savings do not materialize? This borders on the Senator's question. Won't programs be affected then? Inflation assumptions are just that: assumptions made based on the best information available at the time. The information used during the midyear review is more recent and provides a better basis for inflation assessments than those made almost a year ago when the 2003 budget was being built.

The same question can be asked about any budget at this time. What happens to programs if inflation is higher than expected? I would note that the Department of Defense routinely takes advantage of inflation savings, as do the authorization and Appropriations Committees in both the markup and conference process. So this is not a new source of funds.

I would also note that the path taken by the House on missile defense is quite different than that of the Senate. The use of this source will be debated and resolved in the context of our conference, if adopted by the Senate.

Mr. LEVIN. I thank my friend and I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Rhode Island.

Mr. REED. Madam President, as the chairman of the Subcommittee on Strategic Systems, I have had the opportunity, over the course of many hearings and many briefings, to look closely at our missile defense program, and also to recommend to the committee that we make these reductions.

All of these recommendations were based upon careful scrutiny of the programs. They were based upon an evaluation of the effectiveness of the programs going forward, and, in addition, a sense of trying to avoid duplicative costs, ill-defined programs, those areas in which money might be spent but there is no clear indication of the product that was going to be purchased. In fact, some purchases seem to be premature because the testing of the products had not been accomplished. So this process has been a long one, and it has resulted in specific recommendations that today we are considering on the floor of the Senate.

I will make some general points about what is in this bill because it represents a significant commitment to missile defense, both theater missile defense and national missile defense, which now have been amalgamated in the administration's approach which they describe as a layered defense: the boost phase, midcourse phase, and terminal phase.

We have made a significant commitment of dollars in this bill to missile defense, and those points should be made.

First, the Department of Defense estimates that in this year they will spend about $4.2 billion. They expect to spend that for missile defense, leaving $4 billion of funds to be carried over to the next fiscal year, 2003.

We recommend, in this bill before us today, $6.8 billion of new funding for fiscal year 2003, giving the Department of Defense more than $10 billion available for spending next year on missile defense. That is a significant commitment to missile defense, and one that is supported by this Senator and, I am sure, by others. It is probably twice what will be spent this year.

To characterize $10 billion of available resources for missile defense next year as deep and damaging cuts to missile defense is somewhat inaccurate.

I should say at this juncture, the proposed amendment by my colleague from Virginia suggests that we add about $800 million and give the President the option of spending it on missile defense or antiterrorism activities. But it seems clear to me this debate is about missile defense and not about terrorism. Terrorism is something we are concerned about, but I think the impetus for this amendment is the overarching concern of the administration for missile defense.

So I think, first, we have, in fact, included within this bill before us robust funding for missile defense. We also have to respond to the reality that today we are engaged in a war on terror.

In fact, the National Intelligence Estimate for December 2001 stated:

> U.S. territory is more likely to be attacked with [weapons of mass destruction] . . . from nonmissile delivery means—most likely from terrorists—than by missiles, primarily because nonmissile delivery means are less costly, easier to acquire, and more reliable and accurate. They can also be used without attribution.

That is the National Intelligence Estimate for December 2001. So we do recognize there are threats to us from weapons of mass destruction, but we have to put it in context that the most immediate threats are either short-term theater missile threats by nation states or clandestine operations of terrorists entering the United States.

So with that recognition, I think this proposal we bring to the floor makes a great deal of sense. We have looked hard at individual programs. We are cognizant of the threats, particularly the theater missile threats. And we are also trying to do what we can to ensure that we protect this country from terrorist threats. So we have deliberated carefully and thoroughly on all of these issues.

Let me talk for a moment about the threats because they should be often mentioned because our strategy has to respond to these threats.

First, I think we should point out how we are going forward with the PAC–3 system which is a theater missile defense system. It is in operational testing. It is strongly supported in this bill. It counters those threats that are often mentioned here on the floor.

I know colleagues have talked about the potential access to short-range missiles by terrorist groups in the Middle East. I think they have also talked about the developments which are ongoing in countries such as Iran and Iraq and North Korea for missile systems, short-range tactical systems.

We have a system that is in operational testing, the PAC–3 system that counters those threats. We support that system. It is supported in this budget. We hope it is fielded at the first possible moment, deployed with troops in the field. There are other systems, too, that we support.

We continue to develop the THAAD system, which is another theater missile system. That is supported in this budget. We are supporting the Navy theater-wide system. We are considering, and very carefully supporting, a whole range of missile systems that are important to our defense. So to suggest that this legislation is not supportive of missile defense is to miss the details of the legislation.

We are also looking very carefully, as I mentioned, at specific adjustments to the systems that are being considered today.

That is our role, our responsibility. We are not here simply to say whatever the Defense Department sends over is something we will support without any question or scrutiny. Our job is to look carefully at systems and to make critical decisions about scarce resources, and we have done that.

Let me suggest some of the recommendations we have made in the context of the missile systems I mentioned. First, the sea-based midcourse, which was formerly Navy theater-wide. We fully fund the development and test program, $374 million. In fact, we add $40 million for new shipboard radar for robust theater missile defense. We are adding money to these programs because we believe it is important, and we believe this type of additional expenditure should be included within the budget.

We do, however, look at the program carefully, and we have made the recommendation that $52 million should be reduced because it is for a very vaguely defined concept development study. We believe that study is unjustified, undefined, but we are supporting vigorously the Navy midcourse program, sea-based midcourse, as we should.

From what I have seen of the Navy theater-wide system, the sea-based midcourse, the Missile Defense Agency is engaged in something which might be described as an ad hoc approach. Let me suggest why.

In our authorization bill last year, we asked the Secretary of Defense to submit a report to the congressional defense committees no later than April

30, 2002, on the Department's ultimate plans for the Navy theater-wide system. That was last year's language. We asked them: Give us your plan.

We received a letter back from General Kadish which essentially said: Here is some information, but we can't give you any of the definitive information, particularly the life cycle costs of the system. What he said was, basically, while the questions posed in this request are relevant, a response will not be available until the SMD element of the BMDS is defined, and he suggested that the SMD definition will be completed by December 2003.

That is interesting. Then just a few weeks ago—approximately 10 days ago—I read in the Wall Street Journal where General Kadish was saying there will likely be a contingent deployment of this system in the year 2004. So the program will be defined by December 2003, and then we will have contingency deployment in 2004. That suggests to me a lack of a clear-cut plan, a lack of meaningful communication to this committee and to this Senate.

That shaped a lot of our deliberations in the sense of these ill-defined programs and the significant requests for money.

One area which is most relevant in this regard is the request for systems engineering money. Systems engineering money is generally the hiring of engineers, contractors, and software engineers to talk about designing and integrating systems. It is a very important part of the development of any system, particularly one as complicated and technologically challenging as national missile defense. We had included within this budget $500 million in systems engineering and other Government support and operations funding in individual missile program accounts: More than $170 million in systems engineering for the midcourse program element: the sea-based and the ground-based, the Navy system and the system in Alaska; more than $100 million for program management operations funding in individual program lines in the midcourse element; more than $70 million of Government support in the boost program element; more than $20 million in the sensor program element; and more than $80 million in the THAAD program element.

These are all systems engineering or program management costs. It adds up to a half a billion dollars. There is another category of systems engineering which has been developed in the last 2 years called the BMD system, the system of systems.

First, let me suggest that there are some practical time problems in spending all this money. The presumption for BMD systems engineering is that you are going to integrate all these systems that are being deployed. The reality is, it is very unclear at this juncture what systems will be deployed, what radars will be used, what types of sensors, what combinations of missiles and sensors. It is very unclear. But still the request was for a significant amount of money for systems engineering for the entire BMD system.

We looked carefully at this. We concluded that $736 million for this category was more than sufficient, together with the $500 million that is already embedded in each of the program elements of the existing BMD program.

As a result, we were able to reduce this request for BMD system money by $330 million. But let me also point out that as of this juncture, it appears that BMD will only spend $400 million of last year's money, and this will leave about $400 million for the next fiscal year. Together with the $736 million and the $400 million carryover, BMD systems engineering has over $1 billion, hardly a draconian, drastic cut in their ability to continue to do these programs of integration and systems engineering.

Again, we looked carefully. We determined what they were doing. We determined that they would have more than enough resources to continue their efforts into the next fiscal year, and we were able to move some of this money into the shipbuilding accounts which everyone in this Chamber, I would say without hesitation, will support enthusiastically, an immediate need for our Navy for additional ships.

In addition, we were able to move some of this money into programs for the protection of Department of Energy nuclear facilities. We did that in response to published reports, which we have all seen, that the Office of Management and Budget turned down the Department of Energy for a significant increase in security funds at a time when the threat—at least if you believe the last few weeks from the media—is not the long-range missile, the threat is the terrorists coming in here on an airplane, landing in Chicago with a plan or at least an idea to seize radiological material someplace in the United States, construct a ''dirty'' bomb here, and detonate it. Yet the administration said: No, DOE, you don't need this extra money to secure the nuclear facilities.

We think DOE needs this money, and it is a higher priority than excessive systems engineering money for the ballistic missile defense program.

So as we have looked at all of these programs, we have tried to take a very careful, considerate look, tried to make tough decisions, and they are tough decisions because we don't have unlimited, infinite resources. As the Senator from Michigan said, I question sincerely the availability next year of the inflation savings assumed in the proposed Warner amendment. This seems to be one of those fudge factors that is put in, an estimate. You might realize it, you might not realize it. I await, as the Senator from Michigan does, eagerly, Senator WARNER's response from the Secretary of Defense with respect to these questions.

The reality is that these resources may not be realized through inflation savings. If we authorize the spending, which, for political reasons, the administration seems to be absolutely committed to, we may end up using operational maintenance money to fund missile defense, to fund these ill-defined areas of systems engineering and other programs.

We will find ourselves, in that case, coming back here and wondering why our flying hours are down for the Air Force and Navy pilots, why we can't provide the sort of resources we need for ongoing operations maintenance at a time when we have forces in the field engaged today, trying to destroy these terror networks, and succeeding in many cases because of their skill and courage and the support they are receiving.

We have brought to the floor a bill that robustly supports missile defense but asks very tough questions about specific programs that are not adequately justified or are redundant. Let me give an example of that. The THAAD missile system is well on the way toward the engineering phase to get to a point where it can be part of our theater missile defense system in the next several years, we hope. They are asking for $40 million to purchase 10 unproven missiles.

Our concept is fairly straightforward and simple. We provide that $895 million for the test development and for the first flight test of the missile in this budget. A simple proposition: Let's fly one of these missiles first before we buy 10 missiles. Maybe we can save resources. The THAAD Missile Program is a good example of a program that was once forced to accelerate beyond its technical means. It was, as General Welch described it, rushing to failure, and it failed—program course out of sight, product not adequate, not meeting the requirement set out for the system. It was a program in such distress that it was virtually on the chopping block. General Welch's report said: Listen, you have to go back to a careful, deliberate, thorough development process. The program is back on track. And now our sense is they are trying to get off track again—let's just buy these 10 extra missiles today.

That is an example, I believe, of the robust support—$895 million. But the very careful and appropriate question is: Why do you need to buy 10 missiles today when your first flight test is going to be in fiscal year 2005? Due to time constraints, I must yield the floor but will take time later to continue this discussion.

AMENDMENT NO. 3918

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the amendment by the Senator from Massachusetts, and the time until 12:30 will be equally divided. Who yields time?

Mr. LEVIN. Madam President, with apologies to our friend from Rhode Island, that was the unanimous consent request. I can assure him that there is no time limit on the missile defense

amendment that Senator WARNER will be offering. So we can return to him at that time. The time was to be divided. Senator KENNEDY has returned.

Let me ask the Chair a question. Is the time divided, under the unanimous consent agreement, until 2:30?

The PRESIDING OFFICER. Yes, the time is divided equally.

Mr. LEVIN. Is there anybody in control of the time here?

The PRESIDING OFFICER. Senator KENNEDY controls 14 minutes and Senator LEVIN controls 14 minutes.

Mr. LEVIN. I yield my time to Senator WARNER so that there is equal division between the proponents and opponents.

Mr. WARNER. It seems to me it was Senator KENNEDY and myself. I have delegated that to my colleague from Wyoming.

Mr. LEVIN. I ask unanimous consent that it be divided in that way.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. I yield myself 7 minutes.

Madam President, the record is clear. When there is real competition, public workers will show their strength. According to the DOD's numbers, when Government agencies have competed for contracts, they have won the bid 60 percent of the time fair and square. When public workers win these competitions, the taxpayers save money and good workers keep their jobs.

This amendment is about competition—competition for the Defense Department.

Our amendment will ensure that a framework is established for competition for various goods and services in the Defense Department. We provide a framework, where if there are national security items, they can be exempt. If there are requirements for emergency, they can be exempt. If there are certain needs in terms of the high-tech areas, they are exempt. But for the broad range of different contracts, this amendment will ensure that the American taxpayers' interests are going to be preserved. But, more importantly, we are going to get the best in terms of performance for the DOD.

The public-private competitions that have taken place have saved, on average, over 30 percent, according to the Defense Department.

The Republicans claim that this amendment is in conflict with the GAO Panel on Commercial Activities. In fact, this amendment is based on the principle unanimously articulated by that panel, which calls for greater public-private competition, which gives DOD the power to design the framework for that competition consistent with the sourcing principles laid out by the GAO panel.

The Republicans claim this amendment takes away flexibility from the Department of Defense. Nothing could be further from the truth. When national security so demands, DOD is given the power to waive public-private competition. The amendment exempts many categories of work, including almost all high-tech work, from public-private competition. The amendment even provides a waiver to DOD for functions that must be performed urgently.

It remains in the discretion of DOD to determine how many jobs should be subject to the public-private competition and which jobs are subject to this competition. The DOD retains enormous flexibility under this amendment.

The Republicans claim this amendment will cost money. That is a sign of their shortsightedness when it comes to the value of competition. The DOD recognizes that public-private competition consistently yields savings of over 30 percent on contracts. Any short-term transition costs, which the CBO has estimated at one-tenth of what they are claiming for the substance of this amendment, will be more than made up for in long-term savings to the taxpayers.

The Republicans claim that we are moving too quickly with this amendment and that the Senate should not act now to promote expanded competition. I only ask that my Republican opponents listen to the advice of Mitch Daniels, the Director of the Office of Management and Budget, when it comes to these matters. Earlier this month, he said:

> We cannot afford to wait. . . . The objective is to get the taxpayers the best deal.

While we wait, the administration is moving ahead with shifting 15 percent of all eligible jobs to the private sector without any adequate competition.

The passage of this amendment will lead to a smarter and more efficient procurement policy for the Department of Defense. Just as no private company would reasonably outsource jobs without a hard-headed analysis showing cost savings, Government procurement should be based on what is best for taxpayers and our national defense. The consequences will be savings for taxpayers and improved dependability for our courageous men and women in uniform.

We are surely facing great challenges in terms of our Nation's security in this new era. More than ever, we are relying on the Department of Defense and its dedicated employees. As we expand our Nation's military budget, we must ensure that taxpayers and our men and women in uniform are reaping all of the benefits possible. True competition is more critical today than ever before.

Only if we give public workers the opportunity to compete in public-private competition will we have true competition.

This is what the GAO has said on the question of the Commercial Activities Panel, which has been quoted yesterday:

> Competitions, including public-private competition, have shown to produce significant cost savings for the Government, regardless of whether a public or a private entity is selected.

Angela Styles, senior officer at OMB, a procurement official, testified on the House Armed Services Military Readiness Subcommittee on March 13 2002:

> No one in this administration cares who wins a public-private competition. But we very much care that Government service is provided by those best able to do so. Every study on public-private competition that I have seen concludes that these competitions generate significant cost savings.

What is it about our friends on the other side that they refuse to permit the competition to take place?

Now, we heard estimates just yesterday that, according to DOD, the amendment will cost $200 million. The years of experience and the statements of the administration's officials clearly demonstrate that public-private competitions save money rather than cost. The Deputy Under Secretary of Defense for Acquisition Technology and Logistics testified that the public-private competitions save the Government $11.2 billion, a savings of $11.2 billion. The administrator of OMB's Office of Federal Procurement Policy said the use of the public-private competition consistently reduces the cost of public performance by more than that. Even in the short term, the core of this amendment would cost about a tenth of what the critics and DOD claim.

Those opposed to it say the amendment would prevent the implementation of the GAO panel recommendation. The amendment is based on the unanimous principles of the GAO panel that call for public-private competition. The GAO recommended:

> A process that, for activities that may be performed by either the public or private, would permit public-private sources to participate in competitions for work currently performed in house, work currently contracted in the private sector, and new work consistent with these guiding principles.

That was a quote.

The amendment also provides for a pilot program to test the effectiveness of the best value approach that is endorsed by the opponents of this amendment. Furthermore, arguments are made by the opponents that the amendment goes against the principle held for 50 years: The Government should not compete for noninherently Government functions. For the first time, the amendment would mandate that the Government compete with the private sector.

The proponents of that statement left out a key clause in the long-standing U.S. procurement policy. According to OMB, ''the Government shall not start or carry on any activity and provide a commercial product or service if the product or service can be procured more economically from a commercial source.''

We are not asking that work be given to the private sector if indeed the Federal Government agency can do it more efficiently. The Government personnel system is not nimble enough to accommodate this amendment and move on

short notice. That is an argument that is made against this amendment.

There is no reason to believe the Government cannot adequately accommodate the need for qualified personnel. In the face of pending base closures, OMB outsourcing quotas, the DOD civilian workforce will continue to downsize. As a result of this process, over 300,000 DOD civilian personnel have lost their jobs due to outsourcing in recent years. There is an excess of potential qualified personnel.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I rise today in opposition to the Kennedy amendment, which would arbitrarily require Federal Government agencies, particularly the Department of Defense, to compete with the private sector for the performance of inherently nongovernmental services within the Department of Defense. As chairman of the Republican Senate High Tech task force, I believe that contracting with the private business entities helps drive innovation and indeed save the taxpayers money.

This amendment would reverse the progress that has already been made in this area and obviously create damage to important initiatives such as e-government. In fact, many of the information technology companies across this country believe they would no longer seek Federal contracts with DOD under the provisions of this amendment, thereby, unfortunately, creating job losses in the private sector.

This view has been shared by my colleagues, Senators ENSIGN, WARNER, GRAMM, SMITH, COLLINS, HUTCHISON, BURNS, BENNETT, HATCH, and BROWNBACK.

This amendment would mandate that every new Department of Defense contract, modification, task order, or contract renewal undergo a so-called public-private competition, whether or not the Government even has the requisite skill, competence, or personnel to perform the work.

The changes in this current process by this amendment will: (1) weaken and delay Government performance; (2) could devastate small business; and (3) have a harmful effect on our important, creative, high-technology industry.

First, the anti-private-enterprise exercise that would be caused by this bill would result in delays in performance of Government contracts. The Department of Defense would lack the capacity to quickly procure and adopt innovative solutions to enhance safety, security, and effectiveness. It would be an undesirable bureaucratic impediment that could harm the ability of the Defense Department to perform its duties, especially now during a national crisis.

Secondly, the added costs associated with the A–76 program, in comparison to competitive procurement practices, traditionally would exclude most small businesses from participating in service contracting. This would have a particularly detrimental impact on women, minority, and veteran-owned companies.

Finally, the amendment will have a devastating impact on the high-tech industry, an industry that is so important to the competitive vitality of the American economy. This amendment is opposed by the high-tech industry, including the Information Technology Association of America (ITAA). The exemptions for technology are ambiguous and do not cover the full range of activities conducted by the exempted industry. Moreover, ITAA notes the information technology exemption herein covers only 3 percent of total IT service contracting. This is also opposed by the Chamber of Commerce and various unions.

I will close with the views of the Secretary of Defense, who says:

> We have made a top priority of finding efficiencies and savings within the Department of Defense to enable us to improve our tool-to-tail ratio. An important element of that effort is to adapt business and financial practices to make the best warfighting use of the resources the American taxpayers provide us. The draft Kennedy amendment would increase Department cost by requiring public-private competitions for new functions and for previously contracted work already subjected to market competition. It would also adversely impact mission effectiveness by delaying contract awards for needed services.

The Secretary of Defense, Mr. Rumsfeld, closes:

> The proposed amendment would increase Department costs and dull our warfighting edge.

I suggest that no Member of this body should support legislation that dulls our warfighting edge. I therefore urge my colleagues to vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I yield myself 30 seconds to respond.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am still waiting to hear the reason from the other side that competition does not work. We are told that we cannot have competition in the Defense Department because it is going to take time to set up a process and procedure; we cannot have it because it is going to work against small business.

We have a million-dollar exemption so that anybody below a million dollars, a small business, can compete. Perhaps someone on the other side can tell us why competition cannot work. We have not heard the answer to that. What we have heard is all of the accountants, Mitch Daniels, the GAO, say that competition can work, and when it does work, we get the best in terms of our fighting men and women and we get the best in terms of taxpayers.

I cannot understand the opponents saying we cannot set up a process and procedure in order to deal with this; it is going to be too complicated and costly. That is baloney. Competition can work, and I am so surprised, from the party that allegedly is for more competition, that they cannot support this amendment.

I yield 3 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I rise in strong support of the amendment offered by the Senator from Massachusetts, Mr. KENNEDY, of which I am an original cosponsor.

I have long been concerned about the costs and benefits associated with the process by which the Federal Government contracts out work. In particular, I am concerned about the lack of data on whether these contracts actually achieve real savings for the taxpayers, and about the effects of outsourcing on the pay and benefits of Federal workers.

I do not automatically oppose contracting out. Such a process is often appropriate. I am concerned, however, that the Department of Defense is currently able to circumvent the public-private competition process for contracting out work that is employed by other Federal agencies. Contracting out affects the jobs of thousands of dedicated Government employees each year. These men and women deserve the chance to compete for this work, as the Senator from Massachusetts was pointing out. They deserve the right to compete for their jobs, and they have a right to do it on a level playing field. The Kennedy amendment would help to provide a level playing field by ensuring that true public-private competition actually occurs.

This amendment does not prohibit the Department of Defense from contracting out. It does not stipulate which categories of jobs may or may not be subject to public-private competitions. In fact, a number of job categories are exempted. This amendment is broadly worded to give DOD flexibility on which and how many positions to subject to competitions. The amendment also includes a national security waiver.

Some have argued that this amendment would spell the end of contracting out by the Department of Defense. Again, that is not true. This amendment simply requires DOD to comply with four broad goals aimed at bringing a measure of fairness and equity to the contracting out process.

First, the amendment would ensure that public-private competition actually occurs before work currently performed by Federal employees is contracted out. The DOD would be able to

use any cost-based process to carry out this competition, including the Circular A–76 process. This process would give DOD employees the opportunity to present their best bid and to compete on a level playing field with bids from contractors. The goal of contracting out is to get the highest quality work at the best price for the taxpayers. We should not continue to shut the civilian DOD workforce out of this process.

Second, this amendment would help to ensure that Federal civilian employees are given the opportunity to compete for a fraction of what is called ''new work'' to be performed at DOD. This provision would be phased in over several years.

Third, this amendment would require DOD to use ''contracting in'' as well as ''contracting out'' to make sure that Federal taxpayers are getting the best deal. It only makes sense to periodically compete work that has been awarded to contractors to ensure that the Federal taxpayers are continuing to get their money's worth. Work being performed by contractors should be subject to the same scrutiny as work being performed by Government employees. In the interest of fairness, the amendment requires that DOD opens to competition similar numbers of contractor and civilian employee jobs.

Finally, the amendment would require DOD to establish an inventory to track the cost and size of its contractor workforce. This inventory would be compiled using the same procedures that the Department of the Army recently adopted to track its own contractor workforce. I share the concerns of some of my constituents, who have told me that they believe that contracting out simply shifts jobs from the Federal Government to the private sector without any real savings. I also share their concern that part of any savings that is achieved may actually come from reduced salaries and benefits that are paid to contractor employees. It is important that DOD and Congress have an accurate picture of the true size and cost of the contractor workforce.

In sum, this amendment does not prohibit the Department of Defense from contracting out. It would ensure basic public-private competition that will allow DOD employees to compete with contractor bids on a more level playing field. It will also help to ensure that the DOD contracting process is achieving the best result for taxpayers.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. I yield 5 minutes for the Senator from Missouri.

Mr. BOND. Madam President, I appreciate the time.

I am very much concerned that the Kennedy amendment takes us backward. Under the Federal Activities Inventory Reform Act of 1998, the FAIR Act, agencies are examining activities to find what they do that duplicates activities done in the private sector. This would be done to see if these activities can be contracted out, to do those activities more cheaply and effectively. This would prevent the Federal Government from competing with the private marketplace. When the job is done in the private marketplace, not only do we avoid having to carry an additional Federal bureaucracy, we get to tax them if they make a profit and we get the benefits of the competition, the innovation, that small business brings.

As the ranking member of the Senate Small Business Committee, I focused a lot of time and attention on what small businesses are able to do. We find there are some tremendous innovations and new ideas coming from small business. Whenever some action can be done effectively in the private sector, I believe the private sector should have the opportunity to do it. Functions that are inherently governmental, clearly no one disagrees, should be done by Federal employees. We are not talking about those. We are talking about functions that are commercial in nature.

The current process for evaluating these functions for a possible contracting out is the so-called A–76 process. OMB Circular A–76 calls for competition to take place wherever commercial activity currently performed by a Government agency is proposed to be contracted out. The Federal employees of that agency describe how they would organize themselves into the most efficient organization and compete against the proposals submitted by private contractors.

The Kennedy amendment would bar contracting out of these functions, unless the private contractor's proposal to provide cost savings of at least 10 percent over the Federal employee's MEO. This is intended to make contracting out as difficult as possible. This is a direct shot at small businesses. This is meant to cripple the ability of small businesses which are now providing vital products and services in our Defense Department.

The Kennedy amendment purports to implement the recommendation of the Commercial Activities Panel convened by Comptroller General David Walker. However, the sole emphasis on cost savings—also, the Kennedy amendment puts in a 10-percent additional savings—the sole emphasis of the sponsor of this measure is saying that the deciding criteria in that should be cost actually conflicts with the Walker panel recommendations. The Walker panels calls for the standard of best value, what generates the overall best value to the taxpayer.

Cost savings is clearly one factor being considered. But best value contracting also includes other factors, such as higher quality, faster delivery, innovative processes, reliable past performance, or other criteria that might justify a higher cost.

Best value contracting is what most of us do every day when we go out to buy goods and services. When you buy lunch, you do not always buy the lowest price item on the menu every day. When you go to the department store, you do not always purchase the cheapest item on the shelf. You may deliberately buy an item that is more expensive because you expect the quality to be better. The best value approach puts Government contracting on par with how average, intelligent, informed consumers make their purchases in the marketplace.

That is one reason the Government is increasingly relying on best value contracting and why the Walker panel recommends it for analyzing contracting out proposals. The Kennedy amendment's exclusive emphasis on costs savings, and the additional unworkable requirement the savings must be more than 10 percent, is a step backward from the Walker recommendations.

The sponsor of the amendment has cited OMB and other statements made by this administration, when, in fact, the President, speaking for this administration on March 19, emphasized the vitally important role that small business plays in meeting the needs of the Federal Government. He talked about taking a major effort, launching a major effort, to stop the bundling of contracts to prevent their being awarded to small businesses.

There is currently underway a study in OMB under Angela Styles on how to get more contracts unbundled so small business can provide a workable and economic role.

I urge my colleagues to oppose the Kennedy amendment.

Mr. THOMAS. I yield our final 5 minutes to the Senator from Tennessee.

Mr. THOMPSON. Madam President, there has been a lot of discussion concerning the Commercial Activities Panel. As has already been stated, this is a panel that was set up with the distinguished citizens to consider this complex problem. One of their recommendations, No. 9, is to ensure that competitions involve a process that considers both quality and cost factors.

My understanding is that the amendment of the Senator from Massachusetts addresses only the cost factors in determining the best value to the Government. On that, in and of itself, we clearly have a deviation, to say the least, from the Commercial Activities Panel.

That is not as significant a point as the one following, and that is the Armed Services Committee simply has not reviewed the panel's recommendations, and we on the Governmental Affairs Committee have not had the opportunity to review and consider the panel's recommendations. This is certainly an area of some complexity and controversy that should go through the committee process.

We have a bill before the Senate now on the Governmental Affairs Committee similar to the Kennedy amendment but it applies to all agencies in the Federal Government. We have had

one hearing on that bill to date. We are in the middle of that process. This amendment will clearly increase the costs to the Government and distract the Department of Defense from its war fighting mission.

The Senator asked, why are we against competition? The answer is, we are not. We have plenty of competition. What we have is competition in the private sector competing for the jobs. The Senator would interject the Federal unions into the middle of that competition where there has been no such injection in times past. The Department of Defense points out it will cost more money and it will delay contracts at a time when we neither need higher costs nor delays in the issuing of contracts.

The DOD and the OMB Director opposes this amendment, as well as small and minority-owned businesses and major labor unions. This is no time to be shifting massive jobs from the private sector to the public sector labor unions. Private labor unions have been losing membership over the past several years while membership in the public labor unions have been rising. Many labor unions oppose this amendment as well as taxpayer groups.

I urge my colleagues to vote against the Kennedy amendment.

I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. Three minutes.

Mr. KENNEDY. I yield a minute and a half.

Mr. DURBIN. I am happy to be a cosponsor of this amendment.

I rise today to speak in support of the Kennedy amendment, which will help ensure real competition between the public and the private sectors for the work performed by the Department of Defense. I am pleased to join my colleagues, Senator JACK REED, DANIEL AKAKA, and RUSS FEINGOLD as a cosponsor of this important amendment.

Let me review what this amendment does. This amendment addresses the need for more competition and more information by requiring an analysis of the costs of maintaining work in the public sector. The amendment defines broad and flexible principles to guide a public-private competition process. It allows the Defense Department wide flexibility in setting up a competition consistent with these broad principles. The amendment provides discretion to the Defense Department to waive the public-private competition requirements when national security demands and exempts a number of activities from the requirements. It also permits DOD the discretion to determine which jobs and how many jobs should be subject to public-private competition.

The amendment will also provide Congress the information it needs to exercise important oversight by watching the level of managed competitions, since there is currently no requirement that agencies conduct them. And by granting DOD ''pilot program'' authority to explore alternatives to the OMB Circular A–76 process that will yield the same projected cost savings, we can gain some practical experience with some of the reforms recommended in the recently published report of the Commercial Activities Panel.

Nine months ago, our Nation's collective consciousness was jolted when heinous acts of terrorism were committed on American soil. As a result of those horrific acts, we are not—and never will be—the same. We are stronger in our response, more steeled in our resolve, more vigilant about identifying and eliminating our vulnerabilities. Overnight, that life-altering experience forced us to seriously evaluate the workings of our Government from a new and different perspective. We now view ''homeland security'' in completely different ways. Protecting our borders, our ports, nuclear power plants, chemical plants, water supplies, and other critical infrastructure has taken on a new and urgent imperative. The Department of Defense is reorganizing itself for homeland security, and functions that may not have seemed essential to DOD's mission may now, in fact, be essential; and conversely, there may be functions that could be better performed in the private sector, allowing DOD to focus on its mission.

I would like to share an example to illustrate this point. After September 11, I asked that my staff to secure a briefing on the security of a chemical munitions storage depot that sits 30 miles from the Illinois border. The United States is in the process of destroying these deadly munitions, which could kill hundreds of thousands of people, pursuant to the Chemical Weapons Convention. I learned that the depot had only one uniformed military officer—the commander—to protect it, because security was provided by private contractors. About a week after that, National Guard troops joined the private contractors in protecting this site.

Historically, DOD has set the pace as the lead Federal agency in using competitive sourcing. But when we talk about ''setting the pace''—what we know is that fewer than 1 percent of DOD service contracts are subject to public-private competition. Work is outsourced without any opportunity for public sector employees to compete for the jobs. And DOD is considered the leader—few civilian agencies have utilized the process; in fact, in Fiscal Year 1997, not one civilian agency reported conducted a cost comparison study.

The Department of Defense spends tens of billions of dollars annually on service contracts—ranging from services for repairing and maintaining equipment to services for medical care to advisory assistance services such as providing management support, performing studies, and delivering technical assistance.

In fiscal year 1999, DOD reportedly spent $96.5 billion for contract services—more than it spent on supplies and equipment. GAO has repeatedly reported that inadequate and inaccurate information provided by DOD on service contract spending hampers congressional decisionmaking and limits congressional use of information reported in the budget.

Not only is reliable cost information scarce, there is too little competition for contracts to provide services to and for Federal agencies. As I indicated, fewer than 1 percent of DOD service contracts are subject to public-private competition. Because there is such a small fraction competed, there is a paucity of information and a host of unknowns about whether outsourcing to the private sector is really saving money for the taxpayers. Outsourcing has evolved as one of the principal mechanisms used to reduce the size, scope, and costs of the Federal government. However, we have few clues about whether outscourcing has in fact reduced government costs, size, and scope.

A GAO study of savings obtained from competitive sourcing published in August 2000 reflected that DOD did realize savings from seven of the nine competitive sourcing cases reviewed, although less than the $290 million DOD initially projected. And savings occurred regardless of whether governmental organizations or private contractors won the competition. Last year, the General Accounting Office elevated strategic human capital management to its list of ''high-risk'' government-wide challenges. In testimony in February 2001 before the Governmental Affairs oversight subcommittee which I now chair, Comptroller General David Walker made it abundantly clear that Federal employees are not the problem. As Mr. Walker emphasized, to view Federal employees as costs to be cut rather than assets to be valued would be to take a narrow and shortsighted view, one that is obsolete and must be changed. I was heartened by his perspective.

Yet right on the heels of this acknowledgement of the severe human capital crisis facing the Federal workforce, the administration launched a major initiative requiring Federal agencies to compete or directly convert to the private sector at least 5 percent of the full-time equivalent jobs listed on their Federal Activities Inventories. An additional 10 percent of the jobs are to be competed or converted by the end of Fiscal Year 2003, 85,000 jobs, for an aggregate of 15 percent of all Federal jobs considered commercial in nature.

It strikes me that it will be about as formidable as the perils of Sisyphus to make any headway in recruiting and retaining the best and brightest in the Federal workforce when in the same breath you are telling them that over the next few years one out of every four jobs is potentially slated to disappear into the private sector. We really don't have a trove of solid, reliable agency-by-agency information about

the costs and performance of work that is being performed for the government under contract. This amendment will begin to gather it—by and for the Department of Defense.

I have long been interested in whether we have a system to measure and account for these costs, determine if there is savings, and oversee the work that is being done with Federal funds. It has been my impression that some of my colleagues have been just hidebound to outsource, without regard to the price tag or performance. Their motivation was to reduce the size of the Federal workforce—at any cost. When I suggested amendments—arguing that we had to save money, they rejected them. They told me that is not the point—we have to turn some lights out in some federal buildings. I would like to know whether that's still driving the outsourcing fervor.

I want to be perfectly clear: I am not opposed to all outsourcing. What I am concerned about is ensuring that decisions to shift work to the private sector are made fairly, not arbitrarily; that public-private competition is fostered; and that we have a reliable system in place to have information about the costs and performance of work being performed with Federal funds by the private sector under these contracts, in essence, accountability.

You can outsource and save money for taxpayers, and I think you should do that. If you decide you will outsource, privatize, and contract out, whether you save money for taxpayers or not, you are not serving either taxpayers or the needs of our Nation.

It is interesting to me that the Senators on the other side of the aisle are fearful of the word ''competition.'' The thought that the private sector might have to compete for providing services to the Federal Government with the public sector is unacceptable to them.

When you look at the Department of Defense, they spend over $96 billion a year on contracts per services. How many of those are competitively bid? Less than $1 billion. Ninety-five billion out of $96 billion in these contracts for services go without competitive bid. It has created cozy, sweetheart, comfortable arrangements with companies and the Pentagon. They do not want to compete. They do not want to stand up against those who say we can do it for you more professionally, more cheaply, more effectively. They can't stand the idea of competition. That is why they are opposing the Kennedy amendment.

Should we not at this point in time of our history, with limited resources, fighting a war on terrorism, insist the taxpayers get every dollar of service for every dollar of taxpayers' money they put into our national defense? That is what the Kennedy amendment says. That is why I am happy to cosponsor it.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. KENNEDY. How much time remains to the other side?

The PRESIDING OFFICER. They have 1 minute 25 seconds.

Mr. KENNEDY. On either side, then?

The PRESIDING OFFICER. There remain 1 minute 25 seconds for both.

Mr. THOMAS. I just want to respond to the comments made with respect to OMB. I want to read from a letter from the Director.

DEAR SENATOR WARNER, I am writing to express deep concern over the possible Kennedy amendment [proposal]. While packaged in good-government clothing, this amendment will severely limit the Department of Defense's ability to acquire services necessary to help the Department meet current threats. The Department of Defense must have the flexibility. . . .

While agencies are embracing competition, focusing on core mission, and eliminating barriers to entering the marketplace, this amendment does the opposite.

The Senator was talking about support from this Department, and this is not what is there.

It would require the Government to consider reforming non-core activities that it doesn't have the skills to do when entrepreneurs and their employees are ready, willing and able to perform.

We most focus our agencies on performance and accountability. Now—when our nation is at war against terrorism of global reach—is not time for the Secretary of Defense to have fewer options, for the sake of moving more functions into government hands.

I yield the floor.

Mr. KENNEDY. Madam President, I yield myself the remaining time.

We should not have to get into a discussion about the value of competition. But a year ago one of our colleagues offered a very similar amendment and then Senator WARNER said: Let's wait until we have the Commercial Activities Panel report. That was to guide the Defense Department.

In this report, on page 47, it says:

Establishing a process that, for activities that may be performed by either the public or the private, would permit public and private sources to participate in competitions for work currently performed in-house, work currently contracted to the private sector, and new work, consistent with these guiding principles.

Unanimous recommendation. That is what this amendment does. That is why we believe it is important. It will be in the interests of our national security, the Department of Defense, and the taxpayers. That is why we believe this amendment should be accepted.

I believe all time has expired.

## RECESS

The PRESIDING OFFICER. The hour of 12:30 p.m. having arrived, under the previous order, the Senate will stand in recess until the hour of 2:16 p.m.

Thereupon, the Senate, at 12:36 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. REED).

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, parliamentary inquiry: It is the understanding of the Senator from Virginia that the time between 2:15 and 2:30 is to be equally divided between the distinguished Senator from Massachusetts, the distinguished Senator from Wyoming, and myself.

The PRESIDING OFFICER. The Senator is correct.

Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Mr. President, under our amendment, the public workers and private contractors alike will have a chance to compete for Department of Defense contracts. It will represent approximately $100 billion. Only about $1 billion of that is competed for. We believe competition is good. We believe competition will get the best product at the best price, which will reflect the unanimous recommendations of the recent study. Fewer than 1 percent of these Department of Defense service contracts are done in that way at this particular time.

I don't understand for the life of me why there should be resistance or reluctance to these various proposals. This kind of proposal was considered by the Commercial Activities Panel on improving the sourcing division of the Government, which was chaired by the Comptroller of the United States.

In this particular proposal, one of the recommendations, which was 12 to 0, was the amendment we are offering today. If our Republican friends have trouble with that, why wasn't there some opposition to that in this report? There was none. It is a unanimously favorable report. This wasn't Democrat and this wasn't Republican. These were contractors, representatives of the public, employees, and accountants, talking about how the U.S. Department of Defense could get the best buy for its money. It was said for years that we couldn't go ahead with competition until we finally got the Commercial Activities Panel report. That took a year and half and 11 different hearings with public comments from all over.

This was unanimous. It was not 8 to 4; this proposal was unanimous. They believe as a result of their proposal that DOD is going to get the best services—the American taxpayers are going to get the best buy, the best service, and the men and women of the military are going to be best served.

Why in the world the resistance to that argument?

I withhold the remainder of my time.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I yield myself 5 minutes of our time. We have 7½ minutes. I yield myself 5 minutes out of our 7½ minutes.

I want to respond to the Senator. He asks, who opposes this? Let me give you some idea of who and why.

One, the amendment will increase costs to DOD by $200 million a year. Secondly, he talks about the report of

the General Accounting Office. There were 10 recommendations that were put out. His deals with one. That is a reason to oppose this.

The amendment would adversely affect DOD's mission. It would mandate, for the first time, that the Federal Government compete with the private sector for work not concurrently performed.

It has problems with the A–76 issue. The Secretary of Defense opposes the Kennedy amendment. The administration has indicated that his proposal goes against the President's governmental performance tasks.

Let me share with you, very briefly, a couple of other comments. This is from the Executive Office of the President, from Mitchell Daniels, who was quoted yesterday as supporting it. He says:

I am writing to express deep concern over the possible Kennedy Amendment.

He goes on to say:

We must focus our agencies on performance and accountability. Now—when our nation is at war against terrorists of global reach—is not the time for the Secretary of Defense to have fewer options, for the sake of moving more functions into government hands.

That is why people are opposed to it. The Secretary of Defense, in a letter, says:

I am writing to express my strong opposition to the draft amendment proposed by Senator Edward Kennedy.

Then he closes the letter by saying:

The proposed amendment would increase Department costs and dull our warfighting edge.

Then, just in numbers, we all mentioned the Secretary of Defense and OMB. We also have organized labor. The Seafarers International Union, the Industrial Technological Professional Employees, International Union of Operating Engineers, the International Brotherhood of Boilermakers—these are some of the folks who have found that this will not help implement what we are seeking to do; that is, to be able to utilize the members of the military and the things they do at a time when it is more difficult to fullfill those responsibilities. To shift some of those responsibilities back to the military away from the private sector seems to be absolutely contrary to what we are seeking to do.

I urge all Members of the Senate to oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself another 2 minutes.

I have listened to my friend and colleague. He says they are opposed because of cost. The fact is, how do they say it is going to cost more when we are going to get competition? We are going to get competition.

The fact remains we have the unanimous recommendation of the group that studied this issue, and they believed the taxpayer would be best served, and DOD would be best served as well with that recommendation.

What is the current situation? Under the current situation, I understand if you are able to get the contracts, you do not want to change the system. That is what is going on on the floor of the Senate. They do not want competition. They have their contracts. They have the sweetheart contracts, and they are saying no.

Listen to this: The GAO found that the costs of nearly 3,000 spare parts purchased by the military increased by 1,000 percent or more in just 1 year. If you have that kind of contract, why do you want competition?

There it is. Taxpayers are the ones losing out. One small part, a hub, estimated to cost $35, was sold to the Government at the contractor's price for $14,000. If you have that kind of deal, why do you want competition? That is the issue, plain and simple.

It is not just the belief of the Senator from Massachusetts, that is the unanimous recommendation of those who have studied it, contractors, workers, and all. Most of us believe that competition does improve the services and the quality of the products. So you find out that is the result.

We have heard time in and time out about the various kinds of products that have been produced, and the costs and the escalation of those costs. I have a sheet right in my hand. This is the GAO oversight. These are the costs on it.

Hub, body, estimated to cost $35, sold for $14,000; transformer, radio, $683 was the unit price, but they charged $11,700; The list goes on and on.

The PRESIDING OFFICER. The Senator has used 2 minutes.

Mr. KENNEDY. Mr. President, I yield myself another minute.

I have not heard from the other side the answer to these questions. Why don't we have something other than just reading a letter from some people who are serving the interests of those contractors and explain to me why they cannot do it? We have not heard it. It is going to be difficult. It is going to be awkward. Yet we have the very important statements that have been made by people, even within the current administration, who say this can result in competition that can result in important savings.

That is what we want to do. That is what this amendment is about.

I reserve the remainder of my time.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute 20 seconds.

Mr. KENNEDY. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. KENNEDY. Mr. President, how much time does the other side have?

The PRESIDING OFFICER. The opposition has 3 minutes 52 seconds.

Mr. KENNEDY. Mr. President, I yield myself my remaining time.

Mr. President, on September 11, the brave men and women who work in the Pentagon faced a great tragedy. When that airplane plowed into the Department of Defense, our fellow citizens working there lost coworkers and joined in the valiant effort to save the injured and tend to the Defense Department families shaken by this act of terrorism.

This amendment is about giving these Americans a chance, a chance to show they can do a good job and deserve the work, if they can do it better and more efficiently than a defense contractor, a chance to embrace the American spirit of competition and free enterprise by competing for Government contracts on the same basis as private-sector companies.

And this amendment is about our values as Americans. Our country was built upon our ingenuity, fueled by the spirit of free enterprise. If you can make a better product at a lower cost than the other guy, then you deserve the business. That is the American way. And it is that spirit of entrepreneurship that makes America the envy of the world.

My amendment lets that American spirit thrive. It puts real competition into defense contracting and, in the process, gives a real boost to the taxpayers and to our own values as Americans.

I urge the Senate to support my amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, have the yeas and nays been order?

The PRESIDING OFFICER. They have not.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WARNER. And I would simply say to my good friend from Massachusetts, what has been omitted from this discussion is the tens upon tens of thousands of Government employees doing superb work in the public shipyards, in the rework centers in several States. Somehow we have looked at a very narrow segment of the overall business of the Department of Defense without referring to the magnificent contributions by hundreds and hundreds of thousands of Government employees.

So, Mr. President, at this time I move to table.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. WARNER. All time is yielded back on this side.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield the remainder of his time?

Mr. KENNEDY. I believe my time has expired.

I believe we need to ask for the yeas and nays on the motion to table; am I correct?

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KENNEDY. On the motion to table.

The PRESIDING OFFICER. There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—50

| | | |
|---|---|---|
| Allard | Ensign | Murkowski |
| Allen | Enzi | Nickles |
| Baucus | Fitzgerald | Roberts |
| Bennett | Frist | Santorum |
| Bond | Gramm | Sessions |
| Breaux | Grassley | Shelby |
| Brownback | Gregg | Smith (NH) |
| Bunning | Hagel | Smith (OR) |
| Burns | Hatch | Snowe |
| Campbell | Hutchinson | Specter |
| Chafee | Hutchison | Stevens |
| Cochran | Inhofe | Thomas |
| Collins | Kyl | Thompson |
| Craig | Lott | Thurmond |
| Crapo | Lugar | Voinovich |
| DeWine | McCain | Warner |
| Domenici | McConnell | |

NAYS—49

| | | |
|---|---|---|
| Akaka | Durbin | Lincoln |
| Bayh | Edwards | Mikulski |
| Biden | Feingold | Miller |
| Bingaman | Feinstein | Murray |
| Boxer | Graham | Nelson (FL) |
| Byrd | Harkin | Nelson (NE) |
| Cantwell | Hollings | Reed |
| Carnahan | Inouye | Reid |
| Carper | Jeffords | Rockefeller |
| Cleland | Johnson | Sarbanes |
| Clinton | Kennedy | Schumer |
| Conrad | Kerry | Stabenow |
| Corzine | Kohl | Torricelli |
| Daschle | Landrieu | Wellstone |
| Dayton | Leahy | Wyden |
| Dodd | Levin | |
| Dorgan | Lieberman | |

NOT VOTING—1

Helms

The motion was agreed to.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi.

Mr. LOTT. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT REQUEST—S.J. RES. 34

Mr. LOTT. Mr. President, I know we have a lot of work to do on the Defense authorization bill. I believe we are making good progress. I know Senator DASCHLE is going to have to make a call sometime today about whether or not we are going to be able to get a lockdown list or whether he files cloture. I am interested in discussing that with him before he makes a final decision because we want to be helpful in getting the work done.

I had indicated earlier also that we hoped we could get a time agreement and understanding and all Senators would be on notice as to when we would proceed on the issue involving the Yucca Mountain disposal site. I ask, notwithstanding legislative or executive business or the provisions of rule XXII, immediately following completion of the Defense authorization bill but no later than July 9, the majority leader or the chairman of the Energy Committee be recognized in order to proceed to Calendar No. 412, S.J. Res. 34, and in accordance with the provisions of section 115 of the Nuclear Waste Policy Act, the Senate then vote on the motion, with no further intervening action or debate.

I further ask that the motions be agreed to, the Senate consider the joint resolution under the statutory procedure set forth in the Nuclear Waste Policy Act; further, that once pending, the resolution remain before the Senate to the exclusion of any other legislative or executive business; and finally, upon conclusion of floor debate and a quorum call, if requested, as provided by the statute, the Senate vote on H.J. Res. 87 without further intervening motion, point of order, or appeal.

Mr. DASCHLE. I object.

Let me simply say, I reiterate what I have said on several occasions. As the Republican leader knows, a unanimous consent request in this case is not necessary. The statute allows any Senator to bring the bill to the floor and make a motion to proceed. It is not debatable. The vote occurs. If it is successful, the debate, under the statute, is required for a period no longer than 10 hours. Any Senator is capable of doing that.

I object today simply because, of course, we have to finish our work on the Defense authorization bill. We are not sure yet what the circumstances will be with regard to the supplemental. I hate to have this legislation supplant an emergency supplemental dealing with our Armed Forces and dealing with the emergency needs of counterterrorism. That is exactly what this proposal would do. It would supplant it if that were the pending business. We are hopeful we can accommodate the priorities of the country and the Senate in a way that recognizes the importance of proper sequencing of legislation including the supplemental. As I say, it certainly also recognizes any Senator's right to bring it to the floor.

I am personally very opposed to the Yucca Mountain legislation as is presented. I oppose it and urge my colleagues to oppose it as well. We have a large majority of our colleagues on this side of the aisle who oppose it. However, for that reason as well as for the procedural reasons I have just described, I do object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. If I could use leader time to comment further, I understand why the Senator would object at this time. However, I make it clear to all the Senators on both sides of the aisle and both sides of the issue, we will make every effort to make Senators aware of when this issue might come up, give them maximum opportunity for the majority leader or the chairman of the Energy Committee to call up this issue, and also so that Members know when we are actually going to get to the issue itself.

The way this is set up under expedited procedures, once we go to it, once the motion to proceed is agreed to, there will be 10 hours of debate and we will go to the final vote. I think that is the right scenario. However, I caution Senators, there is a deadline. Under the law there was a certain amount of time this legislation could be pending in the Energy and Natural Resources Committee and there was a certain specified period of time during which it could be available for the Senate to act. If we do not act by July 27, the veto of this issue by the Governor of the State involved will hold. The worst of all worlds would be not to act in a responsible way with a clear vote in the prescribed amount of time we have available. By going to this issue the first week we are back, everybody will know when to expect it to come up, and it will be assured that we get it done before the expiration date of July 27.

We will continue to speak about the importance of this issue. We have been working on it many years, and we have spent an awful lot of taxpayers' money. It is time we make a decision and move forward with this repository.

I am happy to yield to Senator MURKOWSKI.

Mr. MURKOWSKI. I certainly urge the two leaders to proceed and recognize the obligation we have to bring this matter to a vote. It would be a grave reflection on the Senate to not take up this matter prior to July 27. The House has done its work and spoken with an overwhelming vote in support of proceeding with Yucca. To allow this matter simply to die through inaction is a grave reflection on what was intended to be a balanced procedure, giving the Governor of the State of Nevada an opportunity to present the opinion of the State of Nevada, yet allowing for both the House and Senate to vote on the issue.

I encourage the two leaders to give us the assurance that we would have an up-or-down vote, that it would simply not be allowed to die in the course of events that clearly are going to take a great deal of time and effort as we proceed with the calendar.

July 27 is the drop dead date for the procedure, as the minority leader indicated. He will be forced to vote on the motion to proceed followed by 10 hours of debate and then the final disposition. I remind my colleagues of the fiscal responsibility we have in light of

the realization that the Federal Government entered into a contract, a contract with the utility companies that develop nuclear power in this country, to take that waste in 1998. The ratepayers have paid in the area of $16 billion to $17 billion to the Federal Government. The Federal Government is derelict in not being responsive to contractual commitments or contractual agreements, with the possibility of potential litigation, to the taxpayers of this country, somewhere between $40 billion and $70 billion for the failure of the Federal Government to honor the terms of that contract.

The longer we delay this process—when I say ''delay,'' I am talking about just that: Proceeding with the process that would basically lead to a time sequence that would not allow us to dispose of this issue is irresponsible. As a consequence, I encourage the two leaders to give us the assurance that we will have an up-or-down vote, we will be allowed to have 10 hours of debate, prior to July 27. To not do that, indeed, would be a very grave and negative reflection of this body—simply ducking its responsibility.

Mr. LOTT. Mr. President, it will be better if I yield the floor and allow the Senator to get time on his own so he will not have to think he is being inconsiderate of me by the time he takes.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the majority leader for objecting today, and I appreciate his opposition to this project.

The junior Senator from Alaska talked about an obligation to move this legislation. I think there is never an obligation to do the wrong thing.

I believe that proceeding on the issue of Yucca Mountain would be the wrong thing for this country for several reasons. There are a lot of misconceptions when it comes to Yucca Mountain. It is said we have a contract with the utility companies. That is simply because this Congress decided to enact a law based on politics and not based on what the country actually needed.

Over the time of studying Yucca Mountain, we have a process that has become extraordinarily expensive, so much so that during the 1980s they dropped two of the sites they were studying because the costs were out of sight. Now, in the late 1990s or early 2000, the costs are going out of sight again. The latest cost estimate for Yucca Mountain is close to $60 billion. That is as much money as the cost of all 12 of our aircraft carriers.

The stated purpose is so we can make nuclear power more viable in the future, if we have a solution for the waste. I submit to my colleagues that Yucca Mountain will not make nuclear power more viable because of the expense.

We talk about the trust fund, that the ratepayers are paying into this trust fund. They paid in approximately $11 billion. When you count interest on that money in these phony trust funds that we have set up the trust fund is somewhere around $17 billion. We have spent about $8 billion of that so far, $4 billion on Yucca Mountain, constructing Yucca Mountain.

People have no idea. Because they go out there and see this very impressive hole in the ground, they think we are almost done. We have hardly even scratched the surface. It is a huge project, hugely expensive. It is going to come out of the general revenues. That means taxpayers across the country who do not have nuclear power in their States are going to be paying for Yucca Mountain for years and years into the future.

I will close. It is talked about that any Senator can bring this legislation to the floor. That is true. It says right in the act that any Senator can bring this legislation to the floor. Under the rules of the Senate, any Senator can bring any legislation to the floor, but the precedent and the history and the tradition of the Senate is that only the majority leader brings legislation to the floor of the Senate. There have been five pieces of legislation that had similar language to the Nuclear Waste Policy Act, where it specifically stated that any Senator could bring the legislation to the floor. However, in that history of those five pieces of legislation, three of them were brought to the floor by the majority leader, and regarding two of them, the majority leader actually got them not brought forward to be considered in the Senate.

If somebody besides the majority leader brings this legislation to the floor, we are breaking with the traditions of the Senate. Because we do not have a Rules Committee that says how legislation will come to the floor in the Senate, the same way the House has a Rules Committee, I believe we are setting a very dangerous precedent for the majority.

On this side of the aisle we happen to be in the minority right now. Someday we would like to be in the majority. I think it sets a dangerous precedent for us on this side of the aisle, if we are going to be in the majority someday, for this type of legislation to go forward without the majority leader bringing the bill to the floor. He has announced his opposition, and we appreciate that. But I remind my colleagues it is said, because this legislation is so important, that we need to set this kind of precedent; that people do not believe, because of the importance of this legislation, that we are setting that precedent.

I say, to the contrary, there are a lot of pieces of legislation that we look at around here that we say are very important. If a majority of Senators get together, regardless of which side of the aisle they are on, and offer a motion to proceed, they can control the floor of the Senate and thereby become the majority in and of themselves.

I thank the majority leader for the work he is doing in trying to defeat this legislation. My colleague from the State of Nevada, the senior Senator, has done yeoman work over the years, and I appreciate all his efforts. We are going to continue to fight this legislation, not just because we believe it is bad for our State but, more importantly, we believe this legislation is wrongheaded for the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I wanted to speak to the Defense authorization bill and was curious as to whether we are back to regular order on the Defense authorization. We are back to regular order?

The PRESIDING OFFICER. That is pending.

Mr. ALLARD. Mr. President, I thank my subcommittee chairman on the Strategic Subcommittee on Armed Services for his leadership. On this particular subcommittee, we do not always see eye to eye, and I appreciate his willingness to reach out and work with us. I value our working relationship with my chairman on the subcommittee.

There is certainly much in the committee bill I am able to support. One of my particular interests for several years has been the use of commercial imagery to help meet the Nation's geospatial and imagery requirements. I do not believe the Department of Defense has been aggressive enough either in crafting a strategy or in providing funding for this purpose.

I am gratified that the committee bill includes a substantial increase for commercial imagery acquisition and some very helpful words in report language that I suspect will drive the Department toward establishing a sound relationship with the commercial imagery industry.

I also appreciate the support of the new Department of Energy environmental cleanup reform initiative that will incentivize cleanup sites to do their important work faster and more efficiently. The accelerated cleanup initiative will reduce risk to the workers, communities, and the environment, shorten the cleanup schedule by decades, and save tens of billions of dollars over the life of the cleanup. The bill adds $200 million to this initiative, and I expect the Department of Energy will make tremendous strides.

In both of these areas, I believe the bill makes excellent progress. However, early in the process of crafting this bill, I made it very clear that one of my top priorities was to assure that ballistic missile defense programs are adequately funded. I am deeply disappointed that the committee bill, by the margin of one single vote, reduces missile defense programs by more than $800 million. This represents an 11-percent decrease to the missile defense request for fiscal year 2003, a request, I might add, that was already less than what was appropriated for fiscal year 2002, by some $200 million.

I believe reductions of this magnitude are unjustified and will do deep and fundamental harm to the effort to develop and deploy effective missile defenses as efficiently as we can.

In the wake of the events of September 11, I believe missile defense is more important than ever. As the Director of Central Intelligence George Tenet testified before our subcommittee, we don't have the luxury of choosing the threats to which we respond. Missile threats have a way of developing faster than we expect.

I opposed the bill in committee because of these reductions, and I intend to support, as vigorously as I can, efforts on the floor to restore the funding. I am disappointed we could not find an acceptable compromise on this issue in committee, and I look forward to working with my chairman in a continuing effort to find an acceptable resolution to this disagreement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise to speak about the soon to be laid down amendment by Senator WARNER on missile defense. This is a major topic for the body to consider. It is a major topic for the country. I want to address it from a number of different perspectives but primarily from the perspective of the threat we are facing in the international community today.

We are seeing now what is taking place in Iran. I wish to draw special notice to what is occurring there. We are seeing terrorism being supported greatly from that country. We are seeing them supporting terrorist threats and terrorist efforts and funding and even providing arms to terrorists in a number of countries throughout the region. They are supporting it in Lebanon. They are supporting it in central Asia. They are developing the missile capacity in Iran.

Iranian missile capacity has developed substantially now. They are expanding their sphere of influence to the extent of how far the delivery of their weaponry is that they can go with the missiles they have.

Iran, as the President identified, is one of the countries comprising the axis of evil. They seek to do away with the Israeli State, they seek to expand substantially their threat in the region, and they are no friend of the United States. They also have no reservation whatsoever about using the weapons of mass destruction that they have, even targeted toward the United States.

Here is a country that clearly means us harm. Here is a country that is developing and expanding its missile capacity. Here is a country that has some capacity for weapons of mass destruction already and is trying to obtain nuclear capacity, nuclear weapon capacity, which some countries believe they will have in the next several years. That is Iran.

We see what is taking place in North Korea. North Korea has developed and has missile capacity. They have a missile with a substantial range of influence and threat. They share those with a number of other rogue regimes around the world. North Korea has weapons of mass destruction. We don't know about their nuclear capacity and development. They are probably trying to pursue it. That is a country that also means us harm. This is a nation that is a failed state.

Our estimate is that over the last 5 to 7 years at least 1 million North Koreans have died of starvation. At the same time they are developing this massive missile and weapons capacity, there are people fleeing North Korea today. In the last week, we saw that there were 27 people, I believe, from North Korea seeking refuge in the embassies in China to get out of the repressive regime in North Korea. The state has failed. Buildings are collapsing in that state. When people are caught in that building, they get crushed. North Koreans are fleeing from that failed state. They are trying to get out.

This country is maintaining a missile capacity that threatens a number of U.S. allies and could potentially in the near future threaten the United States.

With both of these known examples in Iran and North Korea, why on Earth would not the United States develop a missile defense system when we know these threats are there?

These are state sponsors of terror. By our own account, they are one of the seven countries that are state sponsors of terror. They are doing this financially, with weaponry, and by some accounts with their own officers. They are selling these missiles around the world, as we know is the case with North Korea.

Why wouldn't the United States as rapidly as possible develop our missile defense capacity when we know this is taking place?

The first order for our defense is to provide for the common defense. That is the reason we created the Federal Government.

When we know these things are being developed by two countries that mean to do us harm, why would we not as rapidly as possible use our efforts to develop a missile defense system? Clearly, we should be doing this. This should be of the highest order for us. If one of these could reach U.S. shores—and they may be able to do so in the near future with the development of what is taking place in these two countries, and where they are offering to sell their missile capacity—it could cause enormous harm and death in America.

They currently threaten a number of our allies. They would cause enormous death in those nations.

We should be developing a missile defense system as fast as possible. Unfortunately, the Senate Defense authorization bill is hindering the effort with what is currently in the bill. That is why I am supporting Senator WARNER's effort to amend this bill so we can move forward with a missile defense system on a very rapid basis.

The bill which passed out of the Senate Armed Services Committee includes a $814.3 million reduction to the budget requested for ballistic missile defense. The Warner amendment would provide the authority to transfer up to $814 million within the request to be used for ballistic missile defense and DOD activities to combat terrorism, as the President determined. The administration supports this budget request and opposes the reductions put forward in the committee bill for the Missile Defense Program. This is a reasonable position for the administration to take given the needs that we have for missile defense. It is one we should support, and it is one for which we should be having a robust missile defense program moving forward.

For my own State's perspective, this Warner amendment would restore $30 million to save a spot on the production lines for the second airborne laser aircraft. The acquisition of the second ABL aircraft is essential to the continuation of the program. The first aircraft, which I have seen, is a very impressive aircraft that I think is going to be used in not only missile defense but in other capacities as well.

The Senate Armed Services Committee's version of the bill is not amended to include additional missile defense funding. Secretary Rumsfeld has stated that he will recommend to the President that he veto the fiscal year 2003 National Defense Authorization Act. That is from the Secretary of Defense—a recommendation to veto.

The Missile Defense Program that was developed is a balanced effort to explore a range of technologies that will allow the United States to defend against the growing missile threat facing this country and our forces, friends, and allies.

I just articulate two countries that we know of that are problematic.

What if things occur in other countries? For instance, we are developing and should grow in our alliance and work with Pakistan. This is a very difficult country. What if President Musharraf is not successful and more radical elements take over in Pakistan? That is a country with both nuclear and missile capacity. This is not one of those far-flung possibilities. This is a very real possibility that could take place. We hope we are working against it. I support President Musharraf. This country is very supportive of him. He has done a lot of excellent work. Recently, he helped in reducing tensions between India and Pakistan.

It is a very real possibility for which we should be preparing. If that eventuality happened, and the United States said, OK, now we need to build a missile defense system to offset what is taking place in someplace such as Pakistan, it is too late.

According to Secretary Rumsfeld, the $814 million shortfall in funding

would impose a number of burdensome statutory restrictions that would undermine our ability to manage the Missile Defense Program effectively.

The amendment provides the President flexibility to determine which use of the funds is within the national interest. The funds could be corrected to meet any new terrorism threat that may evolve.

The ballistic missile defense reductions in the bill are considerable and will impair the ability of the Department of Defense to move forward in its effort to develop and deploy effective missile defenses.

The Warner amendment is consistent with the National Missile Defense Act of 1999, which passed the Senate, I remind the body, by a vote of 97 to 3—virtually unanimous—that set out a goal of deploying an effective missile defense for the territory of the United States as soon as technologically possible.

That was the standard we put forward. With the Warner amendment, we could meet that. Without it, we will not. We will not have the funding necessary to meet what we can do technologically. There will be restrictions of what we can do.

In addition, the National Missile Defense Act of 1999 set a goal of further negotiated reductions in nuclear weapons programs from Russia.

The amendment provides the opportunity to make more rapid progress in developing and deploying effective missile defenses, a goal endorsed by 97 of our colleagues.

The Warner amendment provides an offset based on anticipated inflation savings and will have no impact on other programs.

Even though the Warner amendment would boost the bottom line of the bill, it is protected from a budget point of order because it would authorize discretionary spending—not mandatory spending.

The amendment will keep the defense budget within the amount requested by DOD.

We have a number of possibilities for harm that could come to the United States—possibilities of nuclear, radiological, chemical, or biological weapons capability. And we have possibilities that would be enormous disasters.

We know the al-Qaida network is pursuing these means of destruction on the United States. U.S. intelligence uncovered rudimentary diagrams of nuclear weapons in an al-Qaida safehouse in Kabul. This year, the CIA reported that several of the 30 foreign terrorist groups and other nonstate actors around the world ''have expressed interest'' in obtaining biological, chemical, and nuclear arms. Such weapons of mass destruction can be delivered on ballistic missiles aimed at U.S. forces and our friends. We cannot let this happen.

Today, our security environment is profoundly different than it was before September 11. Perhaps I should say it is not profoundly different, but we realize how incredibly vulnerable the United States is, and we should have realized that prior to September 11.

The challenges facing the United States have changed from threat of a global war with the Soviet Union to the threat posed by emerging adversaries in regions around the world, including terrorism. In the wake of the attacks on the World Trade Center and the Pentagon, we need to look at the threat posed to us as a nation and how we should best utilize resources, which certainly includes an effective Missile Defense Program.

For those reasons, I strongly support the amendment soon to be laid down by the Senator from Virginia, Mr. WARNER.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I have been listening to the Senator from Kansas. He makes eminent sense. He demonstrates a frustration that we have been living through now for certainly the last 10 years.

He mentioned the Missile Defense Act of 1999. There was an act that was passed. It was passed by a huge margin, and certainly was a veto-proof margin, so the President did sign it. But then, after that, we did not comply with the act. We have been living since—that was signed in 1999—outside the law in terms of taking the action to deploy ''as soon as technologically possible.'' I think the excuse that was used at that time was the ABM Treaty. I am very thankful that finally we have crossed that bridge and we have gotten that behind us.

I have often looked back to 1972—and of course that was a Republican administration, and I am a Republican—when we had Henry Kissinger. And at that time they said: There are two superpowers, the Soviet Union and the United States of America. The whole thrust of that was mutually assured destruction. You won't protect yourself; we won't protect ourselves. You shoot us, we will shoot you, and everybody dies, and everybody is happy.

That was a philosophy that everybody believed at that time. That was not the world of today. Sometimes I look wistfully back to the cold war. We had two superpowers. At least there was predictability. We knew what they thought and what their capabilities were. That is not true today. We have a totally different world.

Even Henry Kissinger, who was the architect of that plan, in 1996, said it is nuts to make a virtue out of our vulnerability. That is exactly what we have been doing.

I regretted each time President Clinton vetoed the Defense authorization bill. I remember the veto message. It said: I will continue to veto any authorization bill or any bill that has money in it for a threat that does not exist—implying, of course, that the threat did not exist: A nuclear weapon, a warhead being carried by missile, hitting the United States of America. That was in 1995, his first veto.

Yet when we tried to get our intelligence to come up with some accuracy as to when the threat would exist, the National Intelligence Estimate of 1995 was highly politicized and said we were not going to have this threat for another 15 years. At that very time our American cities were targeted by Chinese missiles. At that time, of course, that was classified. It is not classified anymore. The threat, nonetheless, was there.

I share the frustration of my friend from Kansas. I have 4 kids and 11 grandkids. I look at the threat that is out there. I was very pleased when the Rumsfeld commission established, in 1997, that the threat was very real, the threat was imminent, and the long-range threat could emerge without warning.

I was, as the years went by, trying to get some information to shock this institution and other institutions into the reality that the threat was imminent.

I recall writing a letter to General Henry Shelton, Chairman of the Joint Chiefs of Staff, and asking him if he agreed with the Rumsfeld recommendations. He said the rogue state threat was unlikely, and he was confident the intelligence would give us at least 3 years' warning. This was at a time when we also included in this letter: Would you tell us when you think North Korea would have the capability of having a multiple-stage rocket? He said that that would be in the years to come. That was August 24, 1998. Seven days later, on August 31, 1998, North Korea launched a three-stage rocket that had the capability of reaching the United States of America.

So all of that is going on right now. All of that has been happening. We are finally at the point where we are going to vote on something—the missile defense capability was taken out of the Defense authorization bill, and now we have an opportunity to put it back. Singularly, this is the most important vote of this entire year, giving us this capability to meet this threat that is out there.

When I talk to groups, I quite often say—particularly when there are young people in the audience—I would like to see a show of hands as to how many of you saw the movie ''Thirteen Days.'' Of course, most of them saw it. I saw it. It was about the Cuban missile crisis in the early 1960s, how the Kennedy administration was able to get us out of that mess. All of a sudden we woke up one morning and found out cities were targeted by missiles, and we had no missile defense.

In a way, the threat that faces us today is far greater than it was back in the 1960s because at least that was all from one island that you could take out, I believe, in 22 minutes. Now we are talking about missiles that are halfway around the world that, if deployed, would take some 35 minutes to

get here. And we do not have anything in our arsenal—we are naked—to knock them down. That is the threat we are faced with today. It is out there, and it is a very real threat.

I often think about September 11 and the tragedy of the skyline of New York City when the planes came into the World Trade Center. It was a very sad day in our country's history. But I thought, what if that had been, instead of two airplanes in New York City, the weapon of choice of terrorists—in other words, a nuclear warhead on a missile. If that had been the case, then there would be nothing left in that picture of the skyline but a piece of charcoal, and we would not be talking about 2,000 lives; we would be talking about 2 million lives. It sounds extreme to talk this way, but that is the situation we are faced with right now.

When you say, well, of course China is not going to do this, North Korea is not going to do this, and Russia is not going to do this—they are the ones that have a missile that can reach us—let's stop and realize—and it is not even classified—that China today is trading technology and trading systems with countries such as Iran, Iraq, Syria, and Lebanon, so it does not have to be indigenous to be a threat. The threat is there whether they buy a system from someone else or whether they make it themselves.

After the Persian Gulf war, Saddam Hussein said: If we had waited 10 years to go into Kuwait, the Americans would not have come to their aid because we would have had a missile to reach the United States of America.

I suggest to you here it is, 10 years later. The threat is imminent. We are way past due in doing something about it. Today is a significant day when we can set out to do that, something that would defend America. That is the primary function of what Government is supposed to be doing. We have an opportunity to do that today.

So I encourage all my colleagues, for the sake of all of their people whom they represent back home, and for the sake of my 4 kids and my 11 grandkids, let's get this thing started and pass the Warner amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, this morning I had the opportunity to address the issue of missile defense from my perspective as the chairman of the Strategic Subcommittee of the Armed Services Committee.

In the course of our deliberations over many months, with many hearings, hours of testimony, and more hours of briefings and staff contacts, we looked very closely at the proposed budget for missile defense this year by the Department of Defense. We supported many of their initiatives.

We are recommending $6.8 billion of new funding for fiscal year 2003. But let me put that in a larger context. For fiscal year 2002, the Department of Defense estimates they have only spent $4.2 billion of previously authorized money, leaving approximately $4 billion of carryover funds for fiscal year 2003. So our recommendation, together with carryover funds, will give the Department of Defense more than $10 billion of available funding for fiscal year 2003.

That is a staggering amount of money. It is the largest 1-year funding source for missile defense I think we have ever had in our history. It is the combination of not only what we authorize this year for fiscal year 2003, but what has been authorized and not spent for fiscal year 2002.

Mr. ALLARD. Will the Senator from Rhode Island yield on that point?

Mr. REED. I am happy to yield.

Mr. ALLARD. My understanding is they actually did not get into the spending, because we were in session late last year, until the second quarter. So when you get into second-quarter spending on a full year's allocation, obviously you are not going to have the opportunity to spend all the dollars. It is not because the need is not there, it is just because we were in session so late last year, in December, and that is the reason those dollars that were budgeted did not get spent. I have all the confidence in the world we probably will catch up with that.

Mr. REED. I thank the Senator, my colleague, the ranking member from Colorado, for that point. I do not disagree with that point, but I am making a different point, which I will make again; which is, regardless of what caused them not to spend the money last year, that money seems to be entirely available this year, together with our proposed funding level, and gives the Missile Defense Agency over $10 billion to spend on missile defense in fiscal year 2003. That is robust funding by any definition. The suggestion that we are cutting out the heart of funding for missile defense is, I think, erroneous.

We are supporting very strongly a missile defense program, but we are not supporting it without looking carefully at its components and making tough choices about priorities of spending.

That is why, as a result of our proposed reductions, we were able to move significant amounts of money into shipbuilding, which every Member of this body strongly recommends, commends, and supports. In addition, we were able to move some money into Department of Energy security for their nuclear facilities, which is very important. We also have, in fact, provided a bill that robustly supports missile defense.

We did reduce the overall recommendation of the Department of Defense for missile defense, but we also added funds into specific missile defense programs which we believed were underfunded. For example, we added an additional $30 million for test and evaluation of missile defenses. One of the persistent criticisms of our missile development program is that they have not had realistic testing, that they have had tests but they didn't really represent in any meaningful way the type of actual environment in which the missiles must operate. We added additional resources. This is one of the recommendations of everyone who has looked at the Missile Defense Program.

We have added $40 million for a new, powerful, sea-based radar for the Navy theater-wide system. Again, this is a system which General Kadish, director of the Missile Defense Agency, announced 10 days ago or so was a likely candidate for contingency deployment in the year 2004.

That was not suggested or recommended by the administration, but we believed very strongly that an additional $40 million to develop this radar was key to developing the Navy theater-wide system which could be the major element of the sea-based system.

We have also added $40 million for the Arrow missile defense system. That is a joint United States-Israeli program to develop and field—and it is far into the development phase—a theater missile system that will protect not only Israel but United States forces, too, because we hope we will emphasize interoperability as we go forward with the development of that system.

Many colleagues have said the danger of terrorists obtaining missiles is acute in the Middle East, and we are putting more money into the system than was requested by the Department of Defense to ensure that our allies and our forces in that region have an effective missile screen. That is a plus—not a minus—that we added, that the administration did not request.

We have also included $22 million for an airborne infrared system which could be used as a near-term, highly accurate detection and tracking system for national or theater missile defense. Again, this was not requested by the administration but supported and included by our deliberations at the committee level because we do in fact want to see an effective missile defense system fielded at an early time.

Let me talk about some of the reductions we made. Before I get into details, we asked some basic questions: What are you going to spend the money for? What is the product? What do you want to buy? When do you plan on deploying such-and-such a system? Frankly, the answers we got were very vague, very ambiguous. The Missile Defense Agency seems to be in the process of redefining their role, which is incumbent upon this new agency. But in that phase of redefinition, they were not able to provide the kind of specific data we requested. In fact, in some cases they just plain refused to provide any really adequate information.

One example is that in last year's authorization, we requested, required by law in the report language, that they report to us on the life-cycle costs of any system going into the engineering

phase. THAAD was in that engineering phase, and THAAD is a theater ballistic missile being developed right now. Rather than reporting to us the life-cycle costs, they simply administratively took THAAD out of that engineering phase, which suggests to me that either they don't have these life-cycle costs or they were unwilling to share them with the Congress.

We have to know these things. We have to make judgments about critical systems, not just missile systems, shipbuilding, the operational readiness of our land forces, our air forces. All of these are tough choices with scarce resources. At a minimum, we have to know how much these proposed systems will cost. In the case of missile defense, it is very difficult, if not sometimes impossible, to get that information.

We looked at programs and expected they would be justified and detailed in concrete ways. Frankly, we found many programs that appeared to be duplicative, ill-defined, and conceptual in nature. And these programs were not inconsequential. We are not talking about a couple of million dollars to do a study, we are talking about hundreds of millions of dollars; in the case of the Navy theater-wide, $52 million to do a study of concepts for sea-based midcourse naval defense.

So that was the approach we took: Look hard at all of these programs, with the purpose of trying to ensure that missile defense development goes forward but also to ensure we had resources for other critical needs of the Department of Defense.

One of the areas that appeared to us to be the least well justified was the area of the BMD system cost—approximately $800 million—used, as they say, to integrate the multilayered BMD system. First, there are a couple of timing issues. The various components of this BMD system have not yet been decided. As a result, they have an awesome challenge to integrate components that have not been decided upon. That is just an obvious starting point. Again, there was not the clear-cut definition of what they were doing, and $800 million is a great deal of money to spend on simply contracting for consultants, engineers, and systems reviews, particularly when the architecture of the components is not yet established.

We also found out, as we looked back at last year's authorization, which included a significant amount of money for this BMD system, that the Department of Defense, as of midway through the year, had only spent about $50 million. We were informed that throughout the course of the year they are expected to spend about $400 million, leaving about $400 million of resources in this one particular element, BMD systems, that is available for fiscal year 2003 spending. So even with our reduction in BMD systems, they will still have a significant amount of money, upwards of $1 billion, for fiscal year 2003, in this one category of BMD systems.

Again, if you ask them what are they doing: We are integrating systems. We are planning, and we are thinking.

All of that is very fair, but is that a sufficient justification for $1 billion when we have other pressing needs for national defense in this budget?

As we go forward, we looked, again, very carefully, at all the different elements. We made adjustments that we thought were justified by the lack of clear program goals, by duplicative funding, poorly justified funding, and then we looked at other issues.

For example, the THAAD Program. THAAD is a theater missile defense program that has been under development for several years. It had its problems years ago. It was, frankly, off course. One of the conclusions of the Welch panel that looked at the THAAD Program was that they were rushing to failure. They were trying to do too much too fast. They were abandoning the basic principles of developing a system, good requirements, moving forward deliberately, testing carefully. As a result, the program was in danger of being canceled. The program is back on track now, with better engineering, commitment by the contractors. They are moving forward.

But what the administration would like to do now is to go ahead and purchase 10 extra missiles for the THAAD Program. The problem is that the first flight test for the THAAD is in fiscal year 2005. We fully fund this flight test, $895 million for the THAAD for developing the missile, for flight testing in 2005. But ask yourself, why would we buy 10 unproven missiles several years before the first flight test?

The administration talks about a contingency deployment. That is nice, but the first real flight test is several years from now. And in a scarce, tough budgeting climate, why are you buying 10 extra missiles that appear to be unnecessary before they follow through with the first test flight. So we made a reduction of approximately $40 million for those extra missiles.

Now, we also looked at some of the funding for what they described as boost phase experiments—$85 million. We found these very ill defined and conceptual. That is a lot of money for ''experiments,'' without other explanation.

Then we looked at the proposal to buy a second airborne laser aircraft, $135 million. The airborne laser is an interesting system, designed to mount a laser in a 747 and use that to knock down a missile as it leaves the launch phase in its boost phase. It is very complicated technology, challenging just in the simple physics, let alone the hardware that you have to construct. I am told that the prototype laser is twice the size of a system that can fit on a 747. I am also told that the 747 that they are outfitting has yet to have been flown operationally in this capacity in a test.

So you asks yourself, when you have not developed a laser, when you have not used it on the aircraft to actually engage targets, when you are working on basic optics problems and physics problems, why do we have to buy a second airplane in this year? When, for example, you have people complaining that the real chokepoint in our airplane fleet are tanker aircraft to support our ongoing operations. This is an example of expenditure we thought was unjustified. As a result, we suggested and recommended that there be reductions in this program.

Now, I wish to mention one other point in conjunction with the airborne laser because I think it is important. One of the things we discovered in our deliberation was that the Department of Defense has not only totally revamped the Missile Defense Agency, but it is trying to give it an autonomy that exists for few, if any, other defense programs. It has effectively eliminated review of its activities by the JROC, which is chaired by the Chairman of Joint Chiefs of Staff, the warfighters who eventually will use all this equipment. We believe, as with most other programs, that it is required for these people to have a say whether and how missile defense is being developed.

We found out that the Joint Chiefs of Staff were not consulted about this budget that was submitted from the National Missile Agency for missile defense in general; that they did not have an opportunity to say you are spending too little or too much. They were frozen out. Those are the senior uniform leaders of our Armed Forces and they didn't get a say in determining what should be spent on missile defense.

As we develop these systems, we have to think, even at this point, how are we going to use these systems? The airborne laser has real potential in a tactical situation where you are going against theater missiles. If it is going to be used in a national missile situation, where we are trying to back down an aggressor that threatens us with an intercontinental missile launch, a couple issues should be considered: first, this is a 747 doing circles close to the airspace of a hostile nation. If we believe they have the capacity and the will to shoot an intercontinental missile at us, we have to assume they have the capacity and the will to knock down a 747 as it circles in the air waiting for the blastoff. So our first reaction militarily, I think, would be that we would have to dominate the airspace, send our fighters in to preempt the attack so they won't have to send the 747. Why don't we preempt the launch by attacking?

These are some of the operational issues that are being addressed. All we are speaking about here is technological possibilities, but until they are integrated in with the coherent advice of the Joint Chiefs of Staff and JROC, the weight of that advice and of these proposals, I think, has to be questioned. That is our job.

Now, we spent a great deal of careful time reviewing all of these systems. As

I said, we support robust deployment of systems. The PAC–3 system is a theater system that is well on the way to operational readiness. It is being tested right now. We have made some substantial and robust expenditures for the THAAD Program. Navy theaterwide is a program we are supporting in terms of its testing and evaluation. We support the ABL concept. We are funding it but the question before us is, Is it time to buy a second airplane now? I think the answer is no.

The midcourse, the land-based national defense system in Alaska, has been robustly funded. A few days ago the administration announced that a test bed has been started in Alaska for five missiles. That is fully supported in this legislation that we bring to the floor—even though there are real questions about its utility for anything more than a test bed, or even for a test bed.

A contingency deployment would be likely directed against those nations identified as the ''evil empire.'' It turns out that the radar that the system being used in Alaska, the COBRA DANE radar, does not face in the direction of Iraq and Iran. It would be impossible to track those missiles. It has partial coverage of North Korea, but it would be difficult to cover with that radar. The administration has rejected a proposal supported under the Clinton administration to build an X-band radar in conjunction with the Alaska test bed. One of the reasons that the X-band radar was so important was indicated by General Kadish and others in their testimony.

One of the real challenges for a midcourse interception is to identify the warhead from all of the clutter, including decoys that would likely be launched. To do that, you have to have a finely discriminating radar. The X-band is much more finely discriminating than the L band, which is COBRA DANE. The administration says forget that, we are not doing that. Yet we have funded this proposal fully because we recognize that the X-band radar is an important aspect of defending the country. Yet we also recognize we don't have a blank check. We have to make tough judgments about what we spend.

So the idea that we are sort of blithely cutting programs and eviscerating missile defense is, I think, wrong on its face. There is $6.8 billion in this year, coupled with almost $4 billion of funds, that can be used from this year, meaning the fiscal year 2003 budget, coupled with almost $4 billion still available from the fiscal year 2002 budget, is robust funding for missile defense.

My last point is something that I think is important to emphasize in the context of not just this program, but the overall challenge we have. When Secretary Rumsfeld came up to the Appropriations Committee to argue for the cancellation of the Crusader system, he made the point—which I think in his mind was very clear—that we face a defense bow wave of epic proportions as we go forward. If we fund all the programs that we are proposing right now, we are going to have some very hard choices. One of the problems with Secretary Rumsfeld's evaluation is it doesn't go as far as I think it should because, as far as I know, he is not including the cost of the deployment or operation of any missile defense system in the bow wave.

As we consider the long-term implications, we must consider that we cannot just add funds. We have to be careful about it, and we have to be very careful about what these funds will be used for. We have done a very thorough, detailed review of these programs. We have made suggestions based upon the review. There are other pressing needs. The most glaring to me is homeland defense and antiterrorism expenditures.

There, the possibility for extra spending probably exists. Here I think we have made sound choices about priorities that will help enhance the defense of the country. I urge my colleagues to consider carefully the proposals that Senator LEVIN might make but ultimately to, I hope, agree that the bill we brought to the floor contains robust spending that will enhance our defense through wise expenditures with respect to missile defense.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. REID. Mr. President, the two managers of the bill are two of the most experienced legislators we have on Capitol Hill, and so I have absolute confidence in both of them. They certainly know how to handle legislation. I have to say, though, it is 4 o'clock. It is Tuesday. We have the July recess coming up soon. I do not know what the leader will do, but I suggest to the leader that he should file cloture on this bill because it is obvious to me we are not going to be finished with this bill tomorrow, and I think we are going to have trouble finishing the bill on Thursday.

The decision is that of the majority leader, but I say to my two dear friends, the senior Senator from Michigan and the senior Senator from Virginia, the manager and ranking member of this most important committee, that would be my recommendation to the leader, that he file a cloture motion sometime this afternoon. It seems to me that is the only way we are going to finish this bill.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, last night I provided Chairman LEVIN with a draft of my missile defense amendment and then we discussed it at length this morning. At approximately 2:35 or 2:40, the Senator provided me with a proposal the Senator from Michigan had. So he had my amendment for a number of hours. I have only had his for about an hour and 30 minutes.

I have a lot of people with strong beliefs over on my side, and it seems to me it is not unreasonable given the amount of time that I was able to provide for the chairman and the leadership on his side, that I would require just a bit more time to resolve good, honest differences of opinion on my side.

Mr. REID. I am wondering if I could ask my friend from Virginia and my friend from Michigan, maybe we should go to some other amendment then?

Mr. WARNER. I ask the indulgence of my good friend to enable me to work a bit and see whether or not we can proceed to a clear understanding for a procedure such that the Senate can address the views of the chairman and the views of the ranking member.

Mr. REID. As I said when I started this statement this afternoon, I have the greatest confidence in the two managers of this bill. That being the case, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I want to make a few comments in response to my colleague's comments earlier about trying to justify the cuts they had in various parts of the Missile Defense Program.

I rise in support of the amendment that is going to be offered by the ranking Republican in the Armed Services Committee, Senator WARNER, and myself, where we are restoring $814 million for missile defense and activities of the Department of Defense to combat terrorism at home and abroad. This is an important amendment. It will allow the bill to move forward on a bipartisan basis, and I believe it deserves the support of every Member of this body.

The committee bill dramatically reduces the President's funding request for missile defense. This bill actually makes a billion dollars in reduction and then adds back to the ballistic missile defense budget in areas where the funding was not requested. I confess that I am baffled and deeply disappointed that the committee majority insisted on these reductions.

The missile defense request this year was both reasonable and modest, in my view. At $7.6 billion, it was less than the request for fiscal year 2002 by about $700 million and less than what was appropriated in fiscal year 2002 by $200 million. If the committee bill is enacted, missile defense will be funded a billion dollars below last year's funding level.

Many of my colleagues on the other side of the aisle can accept this because they look at missile defense as a

drain on resources that can be better spent on other priorities. This point of view says a missile attack is the least likely threat the Nation must face and that every dollar spent on missile defense is a dollar we cannot spend on more likely threats.

Let us examine this point of view. The contention that a missile attack is the least likely threat the Nation will face is simply false on the face of it. Ballistic missiles pose the most likely threat that we must face. Indeed, we face it today and every day. Missiles and weapons of mass destruction are meant to deter. I know our colleagues on the other side of the aisle believe this. They have often argued that our own nuclear force levels are too high and that effective deterrence does not require that many weapons.

According to the latest national intelligence estimate on missile threats, our Nation faces a likely intercontinental ballistic missile threat from Iran and North Korea and a possible threat from Iraq. Dozens of nations have short- and medium-range ballistic missiles already in the field that threaten U.S. interests, military forces, and our allies. The clear trend in ballistic missile technology is toward longer range and greater sophistication. Once deployed, these missiles threaten the United States, its allies, its friends, and deployed troops. No one has to fire them to be effective. They are effective by their mere presence.

The most recent national intelligence estimate concludes that nations hostile to U.S. interests are developing these capabilities precisely to deter the United States. We already know that our adversaries believe we can be deterred from pursuing our interests. Earlier this year, the Emerging Threats and Capabilities Subcommittee received some remarkable testimony from Mr. Charles Duelfer in his capacity as the Deputy Executive Chairman of the U.N. Special Commission on Iraq. He had the opportunity to interview senior Iraqi Ministers about Saddam Hussein's perception of the gulf war. Many of us are aware that the United States threatened Iraq with extraordinary regime-ending consequences should that nation use chemical or biological weapons against coalition forces during the conflict. The use of this threat has been seen as a triumph of deterrence, but according to Mr. Duelfer, Iraq loaded chemical and biological warheads on ballistic missiles.

Authority to launch those missiles was delegated to local commanders with no further intervention or control by higher Iraqi authorities with orders to launch if the United States moved on Baghdad.

We never attacked Baghdad. The Iraqi regime survived and survives this day, and they attribute that survival to the deterrent effect of missiles and weapons of mass destruction.

Furthermore, the national intelligence estimate also concludes that the likelihood that a missile with a weapon of mass destruction will be used against U.S. forces or interests is higher today than during most of the cold war and will continue to grow as the capabilities of potential adversaries mature.

We have had testimony from many witnesses this year attesting to the seriousness of the threat. General Thomas Schwartz, then the Commander in Chief of U.S. Forces Korea, told the Armed Services Committee:

> As a result of their specific actions, North Korea continues to pose a dangerous and complex threat to the peninsula and the WMD and missile programs constitute a growing threat to the region and the world.

And Admiral Dennis Blair, the Commander in Chief of Pacific Command, testified that he is ''worried about the missiles that China builds . . . which threaten Taiwan and . . . about the missiles which North Korea builds . . . to threaten South Korea and Japan.'' General Richard Meyers, the Chairman of the Joint Chiefs of Staff, in a letter to me dated May 7, 2002, wrote that ''the missile threat facing the United States and deployed forces is growing more serious . . . Missiles carrying nuclear, biological or chemical weapons could inflict damage far worse than was experienced on September 11.''

In light of the consistency of views expressed by our intelligence community and our military commanders, I just cannot fathom the point of view that disregards the missile threat. And yet we hear that other priorities, such as homeland security, are so much higher than missile defense that deep reductions to funding for missile defense are justified. Let us put this view in perspective as well.

First of all, I would note that missile defense is, quintessentially, homeland defense. Defenses against long-range missiles will protect our people and our national territory, our shores and harbors, our cities, factories, and farmlands from the world most destructive weapons. Defenses against shorter range missiles will protect our allies and our deployed forces that are fighting for our freedom.

Secondly, approving the missile defense budget request will not impair military readiness. General Meyers recently wrote to me he fully endorsed the President's missile defense request, and stated unequivocally that ''military readiness will not be hurt if Congress approves the . . . President's budget.''

Third, I would note that the missile defense program is not a single program activity. The $7.6 billion request funds about 20 sizable projects in the Missile Defense Agency and the Army.

Finally, the missile defense request is a modest one when you realize the magnitude of other defense efforts. The missile defense request for fiscal year 2003 is $7.6 billion. This is a mission we have never done before. In essence, we have almost no legacy capability. Contrast that with the more than $11 billion we will spend on three tactical aircraft programs in 2003. We will probably spend about $350 billion on these three programs over their lifetime. And we have tremendous legacy capabilities in this area. Our tactical aircraft are today the best in the world. Another example: We will spend close to $40 billion in 2003 on other homeland security programs. These are all important programs and address vital national security needs. But in light of the size of these programs, the view that the missile defense request is wildly excessive or out of line is misleading at best.

Consequently, I believe, as does the President, the Secretary of Defense, the Chairman of the Joint Chiefs, and the theater commander in chief, that the missile defense budget request is fair and reasonable. In combination, these reductions represent a frank and potentially devastating challenge to the administration's missile defense goals and how the Department has organized itself to achieve those goals.

The administration established the Missile Defense Agency and expedited oversight processes. The committee bill would cut literally hundreds of government and contractors employees that work at the Agency's headquarters and for the military services that serve as executive agents for missile defense programs. These are the people who provide information technology, services, security, contract management and oversight for missile defense projects, and they are vital to good management.

The administration seeks early deployment of missile defense capabilities. The committee bill eliminates funds that could provide capabilities for contingency deployment.

The Missile Defense Agency established a goal of developing multi-layered defense capable of intercepting missiles of all ranges in all phases of flight. The committee bill reduces or eliminates funding for boost phase intercept systems and cuts funding for defenses against short, medium, and intermediate range missiles by more than $500 million.

The Missile Defense Agency established a goal of developing a single integrated missile defense system. MDA established a government-industry National Team to select the best and brightest from industry to determine the best overall architecture and perform system engineering and integration and battle management and command control work for the integrated missile defense system. The committee bill reduces by two-thirds funding for BMD system SE&I and BM/C2 and virtually eliminates funding for the National Team.

The amendment offered by Senators WARNER, LOTT, STEVENS, and I could potentially restore the $814 million net reduction to missile defense and reverse these unjustified committee actions. We all recognize, however, that missile defense is part of the larger picture of homeland defense. This amendment provides the flexibility to the

President to direct this funding, as he see fit, to research and development for missile defense and for activities of the Department of Defense to counter terrorism.

I personally believe that the President would be completely justified in using the funding for missile defense. But to comfortably with the idea that President can direct these funds according to the Nation's needs as he sees them. If the terrorist threat should take an unexpected turn, these funds could be valuable in the effort to assure that a new threat can be contained. If such is not the case, he can direct the funds to missile defense.

I believe that this is a reasonable and fair compromise that will allow the bill to move forward on a bipartisan basis. The gap between the two sides on the missile defense issue is substantial. I recognize that. This amendment is an honest and fair attempt to bridge that gap in a manner that can satisfy both sides. I urge my colleagues to support this important amendment.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Mississippi.

Mr. COCHRAN. I compliment the distinguished Senator from Colorado for his statement. He is a member of the Armed Services Committee which reported this bill to the Senate. He has been a leader in the effort to develop and deploy an effective national missile defense system.

I strongly support the effort being made by Senator WARNER, the ranking Republican on this committee, to amend the bill, to authorize appropriations as requested by the President, for missile defense. It is clear to me that the reductions to that program contained in this bill are designed to prevent the successful development of effective missile defenses. The reductions proposed in the committee bill obviously have been carefully selected to do the maximum amount of damage to the President's plan to modernize these programs. These reductions do not trim fat. They cut the heart out of our missile defense effort.

The President has embarked on a fundamental transformation of these programs which was made possible by the withdrawal from the ABM Treaty. That treaty had led to restrictions on our efforts to develop technologies to conduct tests and to develop effective missile defense capabilities. The treaty outlawed promising basing modes, and it imposed stringent curbs on the types of technologies we could use to defend ourselves against missile attack.

The President plans to transform the separate missile defense programs into an integrated missile defense system which makes the most of the progress we have already made but which is supplemented with new capabilities and new technologies such as the ability to destroy missiles in their boost phase and to base missile defenses at sea. The President's budget request begins to make this transformation a reality.

The committee bill, on the other hand, cuts $362 million from the request for the ballistic missile defense system, under which fundamental engineering that is necessary to achieve this goal will be undertaken. This cut will eliminate two-thirds of the funding for system engineering and integration, and virtually eliminate the national team which would integrate the various system elements.

The report accompanying the bill erroneously claims that these efforts are redundant with system engineering performed in the individual programs. This is not the case. The engineering work this bill would eliminate is both distinct and vital.

The bill also cuts $108 million from program operations, again on the erroneous assumption that this effort is redundant. In fact, according to the Missile Defense Agency, if this cut stands, 70 percent of the civilian workforce at the Agency would be eliminated.

The bill also guts the efforts to exploit new technologies and basing modes which previously were prohibited, as I said, in the ABM Treaty, but which we may now pursue. For example, $52 million is cut from the sea-based midcourse program. That program had a successful intercept just last week, its second in two attempts. But this bill would reduce funds for testing and delay our ability to build on the recent successes.

The airborne laser program, which will provide the United States not only its first airborne missile defense system but the first to use a directed energy weapon, it is reduced by $135 million in this committee bill, leaving the program with only one aircraft.

And the cuts go on: $55 million from the sea-based boost phase work; $30 million from space-based boost; $10 million from the space-based laser. All of these cuts would severely hamper or eliminate work on promising new basing modes or new technologies, just as we have been freed by the withdrawal from the ABM Treaty to fully undertake our research and investigations.

The bill also cuts efforts for which even longtime defenders of the ABM Treaty and missile defense critics have always professed support. For example, critics have said that our missile defenses need more testing, and outside experts have agreed with that.

So what have they done in this bill? Eliminated 10 test missiles from the THAAD Program—not named for me. This is the THAAD—Theater High Altitude Air Defense is what it stands for—Program.

Year after year, the generals in charge of our Missile Defense Program have testified that their testing has been ''hardware poor.'' They did not have enough of the missiles that they needed, the test missiles. They have had so little test hardware that when something goes wrong, as inevitably and occasionally is going to happen in a test program, they are forced to bring the program to a stop while they look for other hardware or try to deal with the problem in some other way.

Congress has been asked by this administration to provide more hardware so that testing can continue when problems develop so that these problems can be corrected. General Kadish has called this ''flying through failure.'' You have to keep testing to find out how to solve the problems, and many of our efforts along this line have been successful and problems have been solved.

We have seen test after successful test in not only the THAAD Program that we mentioned, but in the longer range higher velocity missile test programs.

But this bill cuts from the THAAD Program 10 flight test missiles that will help ensure our ability to fly through failure and keep the program on track.

In the past, opponents have also criticized the program generally as being too risky—which means there is a lot of chance for failure. It doesn't mean that it is risky in that it will not work, it is that you will have failures along the line. But if you go back in the history of our Defense Department and look at new product development—the Polaris Missile is an example or the Sidewinder Missile is an example—they had more failures by far in those early days of testing than these missile defense programs have had. So failures are expected.

But the good news is that we are making very impressive progress. Now, right on the brink of the transformation of the programs into a modernized, fully authorized program, this committee goes through and cuts out just enough—and in some cases more than enough—of certain activities that are involved in the integrated Missile Defense Program to guarantee its failure, to guarantee that we will not be able to succeed in deploying an effective missile defense to protect the security of Americans here at home.

While applauding homeland defense as a necessity, we are, on the one hand, saying it is a good idea and saying we are going to work with the President to make that be an effective way to defend ourselves more effectively than we have in the past, and then, on the other hand, eliminating authorization for funds that are absolutely essential for an effective missile defense program.

They cut $147 million from the midcourse defense segments. The committee eliminated funding for the complementary exoatmospheric kill vehicle, which would reduce the risk of relying on the single design now being tested.

Opponents have claimed that missile defenses will be vulnerable to countermeasures. But guess what. This bill takes the funding away from testing against countermeasures. Can you believe that? I have read article after article in papers, the Union of Concerned Scientists saying: Well, missiles can hit a missile in full flight. But if there

were an extra balloon or a decoy or two, they would not be able to differentiate the difference between the decoy and the actual missile that is attacking us.

We have proven in tests over the Pacific that it can be done, that the intercept missile has differentiated between the missile and the decoy. Then the scientists say: Oh, but that was just one decoy. It was not sophisticated. What if a potential enemy deploys a lot of decoys?

Here the administration plans to do just that as it gets more sophisticated and proves that one thing can work, and how complicated can an enemy be—we will find out whether we can defend against that. But they cut the money so we can't do that. The opponents of the missile defense effort are playing right into the hands of the critics. I guess next they will say there is no money for the additional decoys and the countermeasures. Of course there isn't. They took the money out of the bill.

I am hopeful Senators will look at the details and not just assume, OK, the Democrats think the President is spending too much on missile defense, the Republicans want to spend more.

We are trying to support the President. At a time when our country is under threat from terrorists, we are confronted with nation states building more sophisticated intercontinental ballistic missile capability, testing those missiles, as North Korea did and as other nation states are doing. And you can get the intelligence reports. We get them routinely, on a regular basis. And we have public hearings on those that can be discussed publicly.

In those hearings it has become abundantly clear that there is a proliferation of missile technology in the world today and a lot of nation states that say they are out to destroy us and to kill Americans wherever they can be found are building these systems and testing these systems.

We need to proceed to support our President in this legislation. Of all times to start nitpicking a request for missile defense and go about it in the way that is undertaken in this bill and say: We have left a lot of money here for missile defense. The President has asked for billions—for $7 billion. We just have taken out less than a billion, $800 million.

But look where the money is coming from. The money that is being taken away from the programs is designed to prevent the full-scale development of a modern missile defense capability. That is the result if the Senate does not adopt an amendment to change these reductions, to eliminate these reductions and give the President what he is asking for. And that is a capability to integrate all of the systems into one engineering and development program, for efficiency sake—for efficiency, to save money in the long run so we will not have to have redundant engineering programs. We won't have to have engineering contracts to the private sector. We will not have to have redundant contracts with the private sector. We can bring it all together and have a layered system that would be a lot more efficient and a lot more effective.

There is more to this than politics. We are talking about a threat to our Nation's security, to the livelihood and well-being of American citizens, to American troops in the field, and to the ships at sea in dangerous waters and in dangerous areas of this world today.

Is this Senate about to take away the opportunity to defend those assets, those resources, our own citizens, our own troops, and our own sailors? I am not going to be a part of that.

This Senate needs to hear the truth. The truth is looking at the details of the proposal that this committee is making to the Senate. Don't let them do this. We will pay dearly for it in the years ahead by having to appropriate more money than we should for individual programs or in catastrophes that could have been avoided.

As I said, opponents have claimed that missile defenses will be vulnerable to countermeasures, yet the reductions in this bill eliminate funding for counter-countermeasure work that would address this problem.

One could be forgiven for concluding that the goal here is not to improve the missile defense system, but to ensure it is continually vulnerable to criticism.

In the past, disagreements about missile defense in the Senate have been largely over whether to defend the territory of the United States, and then mostly because such defenses were prohibited by the ABM Treaty. At the same time, there has been near unanimous support for missile defense capabilities that will protect our troops deployed overseas. Yet, this bill would take hundreds of millions of dollars from our theater missile defense programs, even as our troops are deployed in what we all acknowledge will be a long military effort in a part of the world that is saturated with ballistic missiles. It is both baffling and troubling that the Armed Services Committee would so severely reduce funding for these programs—at any time, but especially now.

For example, the revolutionary Airborne Laser Program is reduced by $135 million, restricting the capability to just one aircraft. Having two or more aircraft means that one can be grounded for service or upgrading without losing the capability altogether. But with a single aircraft, this important theater defense capability will be unnecessarily constrained.

The THAAD Program will provide the first ground-based defense against longer-range theater missiles like North Korea's No Dong and its derivatives, such as Iran's Shahab–3. The No Dong is already deployed—our troops in Korea and Japan are threatened by it today, but this bill cuts funding for THAAD by $40 million.

The Medium Extended Air Defense System—or MEADS—is a cooperative effort with Italy and Germany to field a mobile theater missile defense system; it is reduced by $48 million.

The sea-based midcourse program—formerly known as Navy Theater Wide—will provide the first sea-based capability to shoot down missiles like the No Dong. The program had its second successful intercept attempt just last week, but this bill would cut the program by $52 million.

The Space-Based Infrared—or SBIRS-Low—Program will provide midcourse tracking of both theater and intercontinental missiles. The program has just been restructuring by the administration, but this bill's reduction of $55 million will force it to be restructured again, further delaying this essential capability.

The arbitrary cuts to the systems engineering efforts and the program operations of the Missile Defense Agency will fall just as heavily on theater missile defense programs as on our efforts to defend against long-range missiles. Altogether, some $524 million of the missile defense reductions contained in this bill fall on our efforts to defend against the thousands of theater ballistic missiles our deployed troops face today. This is irresponsible and unconscionable.

This bill isn't just micromanagement of the missile defense program, it is micro-mismanagement. The reductions contained in this bill have been carefully tailored to undermine the missile defense program and compromise its effectiveness. If the general in charge of the program tried to manage it the way this bill does, he would be fired.

President Bush's courageous act of withdrawing from the ABM Treaty has freed our Nation—for the first time in over three decades—to pursue the best possible technologies to protect our citizens and deployed troops from missile attack. If allowed to stand, the reductions contained in this bill would squander that opportunity by crippling the efforts to transform our missile defense program in ways impossible until now. The Senate should reject these irresponsible cuts and give the President a chance to make this program work. I urge Senators to support the Warner amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the United States completed its withdrawal from the Anti-Ballistic Missile Treaty on June, 13, 2002, and the Pentagon has shifted into high gear its efforts to deploy a rudimentary anti-missile system by 2004. The drivers of this missile defense hot-rod are doing their best to make it look as good as possible, and they are spreading the word of its latest successes on the test track.

But I am not alone in wondering what this vehicle, with its $100 billion purchase price, really has under the

hood. Does it have the souped-up engine that we are being promised, or is this another dressed-up jalopy? And, more importantly, as this missile defense hot-rod charges down the road with its throttle wide open and the Anti-Ballistic Missile Treaty in the rear-view mirror, is the scrutiny of Congress and the American people being left in the dust?

As part of its normal oversight duties, the Armed Services Committee has requested from the Department of Defense information relating to cost estimates and performance measures for various components of the missile defense research program that is underway. This kind of information is essential to allowing Congress to render its own assessment of whether these programs are on-budget and meeting expectations.

As the Armed Services Committee began hearings on the fiscal year 2003 Defense budget request in February 2002, we requested basic information from the Department of Defense on its proposed missile defense program. We asked for cost estimates, development schedules, and performance milestones. But the committee has not received the information. It is as though the Department of Defense does not want Congress to know what we are getting for the $7.8 billion in missile defense funds that were appropriated last year.

On March 7, 2002, at an Armed Services Committee hearing, I questioned the Pentagon's chief of acquisition, Under Secretary Pete Aldridge, about the delays in providing this information to Congress. He answered my questions with what I believed was an unequivocal statement that he would make sure that Congress gets the information it needs.

Three and a half months later, we still have not received the information that we requested. It also seems that the Pentagon is developing a new aspect of its strategy in its consultations with Congress and the American people. On June 9, 2002, The Los Angeles Times ran an article entitled, ''Missile Data To Be Kept Secret.'' The Washington Post ran a similar story on June 12, ''Secrecy On Missile Defense Grows.'' The two articles detail a decision to begin classifying as ''secret'' certain types of basic information about missile defense tests.

These missile defense tests use decoys to challenge our anti-missile system to pick out and destroy the right target, which would be a warhead hurtling toward the United States at thousands of miles per hour. According to the newspaper articles, the Pentagon will no longer release to the public descriptions of what types of decoys are used in a missile defense test to fool our anti-missile radars. This information will be classified.

Independent engineers and scientists who lack security clearances will have no means to form an opinion on the rigor of this aspect of missile defense tests. No longer will the experts outside the government be able to make informed comments on whether a missile defense test is a realistic challenge to a developmental system, or a stacked deck on which a bet in favor of our rudimentary anti-missile system is a sure winner.

I do not think that it is a cooincidence that independent scientists have criticized the realism of past missile defense tests because the decoys used were not realistic. I cannot help but be left with the impression that the sole reason for classifying this kind of basic information is to squelch criticism about the missile defense program.

Should this basic information about our missile defense program be protected by the cloak of government secrecy? If the tests are rigorous and our anti-missile system is meeting our expectations, would it not be to our advantage to let our adversaries know how effective this system will be?

But perhaps this national missile defense system is not progressing as rapidly as hoped. Then would it not be to our advantage to encourage constructive criticism in order to improve the system? In either case, I cannot see how these secrecy edicts will promote the development of a missile defense system that actually works.

The bottom line is that Congress and the American people must know whether the huge sums that are being spent on missile defense will increase our national security. Since September 11, we have been consumed with debates about homeland security. What is this system intended to be but a protection of our homeland?

Do we believe that American people can be entrusted with information about their own security? I certainly think so. Without a doubt, we need to carefully guard information that would compromise our national defense, but public scrutiny of our missile defense program is not an inherent threat to our security.

In April, the Appropriations Committee heard testimony from a number of people with expertise in homeland security. We heard many warnings about the peril of losing public trust in our Government. No matter if the threat is terrorists with biological weapons or rogue states with missiles, we must not jeopardize the trust of the American people in their Government. If the missile defense system does not work as it is supposed to do, and we hide its shortcomings inside ''top secret'' folders and other red tape, we will be setting ourselves up for a sure fall. We ought to have more, not fewer, independent reviews of our antimissile system.

So I oppose the amendment to increase missile defense funding in this bill by $812 million. The Department of Defense has shown it is more than willing to delay and obfuscate details about what it is doing on missile defense, and I cannot understand the logic of increasing funds for an antimissile system that is the subject of greater and greater secrecy. It does not make sense to devote more money to a system of questionable utility before there is a consensus of independent views that an antimissile system is technologically feasible. The missile defense system that we are developing needs more scrutiny, not more secrecy, more assessment, not more money.

In the next few days, the Senate will vote on this bill and authorize billions of dollars in missile defense funds. While the Pentagon will continue to portray these programs as a hot rod that is speeding toward success, one thing is certain: this hot rod is running on almost $8 billion in taxpayer money this year. Talk about a gas guzzler! If Congress is not allowed to kick the tires, check the oil and look under the hood, this rig could fall apart and leave us all stranded.

## IMMEDIATE ACTION FOR AMTRAK

Mr. BYRD. Mr. President, the Nation faces a transportation crisis. Amtrak, the country's passenger rail service, is running out of dough—D-O-U-G-H—money, that green stuff, funds, what makes the cash registers ring, funds, and its passengers are running out of time. Without an infusion of funding quickly, Amtrak will stop all operations within the next very few days.

If Amtrak closes, the Nation's transportation system will be thrown into chaos. All of Amtrak's 68,000 daily riders will be without service. Thousands of vacation passengers who have already paid money for Amtrak tickets will be left stranded at the station. Commuter railroads from East to West will be completely shut down.

For example, Washington's Union Station is just a few blocks from this Capitol. None of the Maryland or Virginia commuter rail trains will be able to access Union Station. Why? Because Amtrak owns the station. The Virginia trains will not operate at all because Amtrak runs the trains.

The commuter rail authorities in Philadelphia, New York City, and in many parts of New Jersey will stop running. Why? Why will they stop running? Because Amtrak provides the electricity for those trains to operate.

Access to Penn Station in New York City the single busiest rail station in the country will be limited. Why? Because Amtrak already has mortgaged away parts of that station.

In Boston, tens of thousands of commuters daily rely on Amtrak because it operates commuter lines under contract with the State of Massachusetts. Those commuters will have to find a new way to get to work. Why? Because their trains will not be running.

Out West, in California, all ''Caltrains'' service will be halted. Why? Why, I ask? Because Amtrak operates those trains. That is why. The same can be said for the ''Sounder Commuter Rail Service'' in Seattle.

Without Amtrak service, these passengers will take to the highways and

the airways. The traffic jams that are already difficult to navigate will grow by thousands, tens of thousands of cars. How would you like that? The airways between Boston, New York, and Washington already comprise the most congested airspace in the entire country. The air traffic control system cannot simply absorb dozens of additional flights during peak business travel times.

Mr. President, the July 4th holiday is almost upon us. As the celebrations approach, the warnings for potential terrorist attacks grow louder. We should heed those warnings and ensure that Amtrak stays open. Amtrak has a vital homeland security role. The railroad is a viable transportation alternative to highways and airways. To allow Amtrak to close its doors now, when the terrorist threats and the attack warnings come almost daily, would be irresponsible, wouldn't it? It seems to me it would be. To take away the safety net for the traveling public would be foolhardy, wouldn't it? Wouldn't it be? I would think so.

We also must consider the ramifications to the Nation's economy if Amtrak is allowed to file for bankruptcy. Immediately, more than 20,000 Amtrak employees would lose their jobs. That is 20,000 families without paychecks, 20,000 families without health care benefits. Thousands more jobs at commuter lines, suppliers, and vendors would be in jeopardy. In the blink of an eye, the Nation's economy would be dealt a devastating blow in States from coast to coast. With the economy in a precarious state as it is, with the markets fluctuating by the day, it makes no sense—none—to allow Amtrak to close.

With the support of the ranking member of the Senate Appropriations Committee, Senator STEVENS of Alaska, I have proposed, in our discussions with House conferees on the supplemental appropriations bill, that the supplemental appropriations bill, currently pending in conference, include at least $205 million for Amtrak to keep trains running through the end of the fiscal year. With the looming crisis facing the Nation's passenger rail service, we should insist that this funding for Amtrak be part of the final version of the bill, hopefully to be considered by Congress this week.

The Senate included $55 million for Amtrak emergency repairs in its version of the supplemental bill which passed on June 7 by an overwhelming margin of 71 to 22. The House did not include any funds for Amtrak in its bill. The conference report on the supplemental bill would build on the package already approved by the Senate and provide sufficient funding to keep Amtrak on track through the end of this fiscal year.

Last week, Amtrak's new president, David Gunn, testified before the Senate Appropriations Transportation Subcommittee. At that hearing, Mr. Gunn said:

> The urgency of this is enormous. We are very near the point of no return.

Those are not ROBERT BYRD's words. They are the words of Mr. David Gunn, new president of Amtrak. Let me repeat them:

> The urgency of this is enormous. We are very near the point of no return.

In the days since that hearing, there has been no news that I know about to change Mr. Gunn's assessment of the situation. Amtrak's board of directors has been involved in discussions with Transportation Secretary Norman Mineta and the Federal Railroad Administration. But the national administration, instead of stepping up to the plate and providing Amtrak with the funding that it needs, has pushed for a half-way approach that only delays the crisis.

I have spoken with Secretary Mineta. I have spoken with President Gunn. Following those conversations, it is clear that the best alternative is an emergency appropriation of $205 million. That is cash on the barrel head. There is no time for creative accounting. There is no time for posturing. There is no time for so-called reforms. We can talk about reforms and improvements later, but we cannot reform a dead railroad. Amtrak needs help. It needs help now.

Last September, when the nation's airline industry was shut down, to whom did Americans turn for transportation? To Amtrak. Since then, Amtrak's ridership has continued to increase, with record numbers of Americans turning to passenger rail service. At a time when the Nation is turning to Amtrak, the Federal Government should not turn its back.

On September 21, after just a few hours of debate, Senators approved $15 billion for the airline industry. Of those funds, $10 billion was made available in loan guarantees and $5 billion in cash for emergency grants. Few questions were asked. The airlines needed this infusion; the airlines got it. Congress acted; the administration acted. We should do the same now.

We did not blink when the airline industry faced a financial crisis. The administration did not urge grand reforms of the airline industry in order to qualify for these funds. Congress did not urge grand reforms of the airline industry in order to qualify for these funds. When asked for help, when the need was clear, Congress and the administration provided help to the airlines. We ought to show the same leadership for the Nation's rail passengers and employees.

The truth of the matter is that none of this has to happen. We can provide a short-term immediate solution for Amtrak to carry it through the fiscal year by enacting the proposal I have made, with the support of Senator STEVENS, in the supplemental appropriations conference, for $205 million in the supplemental appropriations bill.

I have joined with more than 40 Senators to urge President Bush to support the $205 million supplemental appropriation. As the letter states: The Nation's economy and the Nation's morale have suffered enough since September 11. Allowing the Nation's passenger rail service to shut down would idle more than 20,000 employees and throw the lives of tens of thousands of passengers into disarray. The administration and Congress must not allow this to happen.

Quite simply, Amtrak is vital. It is vital to those Americans who rely on Amtrak for their daily commute to and from work. It is vital to those Americans who use Amtrak for their vacation travel. It is vital to thousands of rail employees. It is vital to our Nation's homeland security. Congress should move ahead with an emergency appropriation for Amtrak and stave off the bankruptcy that would result in absolute chaos for the Nation's transportation network and would give certitude and assurance to Amtrak that the Federal Government, Congress, and the administration do not intend to let it happen to Amtrak; that the Federal Government, that Congress and the administration, stand ready to act, and act quickly. The administration and the congressional leadership should support the addition of $205 million in the supplemental appropriations bill for Amtrak.

I yield the floor.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we have in many ways a good Defense authorization bill. I am sorry we are debating again this year over national missile defense.

Last year, the same debate occurred. It was about the only major disagreement we had over the Defense authorization bill, but it is a very important issue. It is important to the people of the United States. It is important to the President and the Secretary of Defense who are charged with defending our homeland against attack. We have to debate it again this year. That is healthy. That is what this body is all about.

In 1999, it is important to recall, the Senate voted 97 to 3 to ''deploy as soon as technologically feasible a national missile defense system.'' That represented the overwhelming consensus of opinion in this body. President Clinton signed that bill. President Clinton stated that he favored the deployment of a national missile defense system.

During the 2000 campaign, Vice President Gore said he was for it. President Bush made quite clear in his campaign for the Presidency that he considered the deployment of a national missile defense system a high priority for America.

We should not fail to note that Vice President Gore's candidate for Vice President, Senator JOE LIEBERMAN, was

a cosponsor with Senator COCHRAN of the National Missile Defense Act of 1999 and a supporter of national missile defense. He quite clearly stated that position during the campaign for the Presidency.

It is a bipartisan issue. There is no doubt about it. President Bush had it somewhat higher on his priority than President Clinton, but everybody was on board about the issue in general.

When President Bush became President, he proposed last year for the 2002 budget a $7.8 billion national missile defense budget.

President Clinton had proposed a $5.3 billion national defense budget, so he was a little over $2 billion above what President Clinton proposed. We voted on it in committee. On a party-line vote, the Democratic majority struck that increase—or a significant portion of it—from the bill. We took it to the floor last year and, after full debate, that money was restored.

Again this year the President asked for missile defense funds. It is not correct, however, to say he asked for an increase. He actually asked for less this year for national missile defense. He asked for, I believe, $7.6 billion this year as opposed to $7.8 billion last year, all of which was necessary to complete the research and development and testing that is necessary to bring this system online. Let me note, people say that is billions and billions of dollars. It is a lot of money, no doubt about it; but we have a $376.2 billion defense budget. The $7.6 billion needed to deploy and bring online a national missile defense system to protect us from missile attack is not too much, in my opinion, and is a rather small part of the overall defense budget.

So, again, we had in committee a 13 to 12 party-line vote on a motion that cut the President's request by over $814.3 million this year. And the way those cuts were made—as Senator COCHRAN and others have noted, those cuts took parts of programs and undermined the brain trust or the capabilities of many of the systems—some of the testing capabilities that the people who have been a critic of the system say we ought to do. It undermined our ability to do that.

It is an unwise act, in my view. We need a continual, steady funding source that the Defense Department can count on so that they can develop, over a period of years, an effective national missile defense system. We would be very unwise if every year we cut a little bit and try to fight to put that back and go up and down in the budget. That costs more money in the long run and is not healthy. It was one of the President's top priorities when he took office. It is a top priority, I believe, of all Americans. I believe we should go forward with it.

Well, people say: Why do we need this budget? Why do we need a national missile defense? There are a lot of threats to America, but we don't believe we are threatened by intercontinental ballistic missiles—or words to that effect.

Several years ago, when President Clinton was President, he appointed a bipartisan commission, or one was selected and put together. The chairman turned out to be the now Secretary of Defense, Donald Rumsfeld. That commission, after studying the intelligence situation, the threats facing America—Republicans and Democrats of both parties—unanimously agreed that we were facing an increased threat; that we would, indeed, be facing a ballistic missile threat to this country sooner than had been projected; and that we needed to prepare ourselves.

So I would like people to know how these things occur. We don't just, out of the blue, come up with ideas that we need to have a national missile defense. We deal with some of the best experts. We listen to their testimony in the Senate Armed Services Committee and, based on that testimony under oath, recognizing that what witnesses say has great import, they help us decide how to spend our resources.

Admiral Wilson, the Director of the Defense Intelligence Agency, told us this recently, on March 19 of this year, about Iran: Iran continues ''the development and acquisition of longer range missiles and weapons of mass destruction to deter the United States and to intimidate Iran's neighbors.'' He added about Iran, ''It is buying and developing longer range missiles.''

He notes that Iran already has chemical weapons and is ''pursuing biological and nuclear capabilities,'' both of which can be placed inside an intercontinental ballistic missile. He concludes on Iran that Iran will ''likely acquire a full range of weapons of mass destruction capability, field substantial numbers of ballistic and cruise missiles, including perhaps an ICBM, that will be capable of hitting the United States.''

Admiral Wilson on Iraq: ''Baghdad continues to work on short-range—150 kilometer—missiles and can use this expertise for future long-range missile development.'' He adds, ''Iraq may also have begun to reconstitute chemical and biological weapons programs,'' as we have heard so much concern expressed about, all of which can be delivered by missile. Wilson concludes that ''it is possible that Iraq can develop and test an ICBM capable of reaching the United States by 2015.''

Admiral Wilson on North Korea: ''Korea continues to place heavy emphasis on the improvement of its military capability and North Korea continues its robust efforts to develop more capable ballistic missiles.''

We know North Korea has been doing that for some time and testing those missiles. Admiral Wilson said this specifically as to North Korea: It is ''developing an ICBM capability with its Taepo Dong 2 missile, judged capable of delivering a several hundred kilogram payload to Alaska and Hawaii, and a lighter payload to the western half of the United States.'' They have that capability in North Korea now.

The President of the United States has to deal with these issues. He has to consider what might happen as he deals with these countries.

Admiral Wilson, further on North Korea, added this: ''It probably has the capability to field''—that means put into place right now—''an ICBM within the next couple of years.'' That is a frightening thought. ''North Korea continues,'' he added, ''to proliferate''—that is to sell or distribute—''weapons of mass destruction, and especially weapons technology.''

CIA Director George Tenet, in March of this year before the Armed Services Committee, said this about the Chinese military buildup:

> Earlier this month, Beijing announced a 17.6 increase in defense spending, replicating last year's increase of 17.7 percent. If this trend continues, China could double its announced defense spending between 2000 and 2005.

Tenet added further on China:

> China continues to make progress toward fielding its first generation of road-mobile strategic missiles, the DF–31, a longer range version, capable of reaching targets in the United States, which will become operational later this decade.

In the CIA's unclassified report of January 10 of this year, entitled ''Foreign Missile Development,'' they wrote this:

> China has about 20 liquid propellant missiles, silo based, that could reach targets in the United States.

The report also said China continues ''a long-running modernizational program and expects within 15 years to have 75 to 100 ICBM's deployed primarily against the United States.''

Admiral Wilson, testifying about the China situation, noted:

> One of Beijing's top military priorities is to strengthen and modernize its small daily strategic nuclear deterrent force.

He continues:

> The number, reliability, survivability, and accuracy of Chinese strategic missiles, capable of hitting the United States, will increase during the next 10 years.

There are about 15 to 16 countries now that have these kinds of missiles. I shared those from some recent testimonies we have had before our committee. This is not a myth. We are not talking about an abstract idea. We are talking about a different world. In the previous world, the Soviet Union had missiles, we had missiles, and we entered into a treaty to bar the deployment of a national missile defense system. We agreed to that, and it worked for some time.

Unfortunately—or fortunately in some ways—the country we had a treaty with, the Soviet Union, no longer exists, but Russia exists. The treaty was with the Soviet Union. During that same period of time, all these other countries were developing the capabilities to threaten us. So we now had a treaty with a country that used to be our enemy, and it no longer is, that was barring us from deploying and producing a defensive system for our country. That did not make sense, and the

President had the gumption, the courage, and the wisdom to say we did not need to be in this treaty any longer, that it did not serve our interests. He worked with the Russians, and we had Members of this body about to have a conniption fit that if we violated or took steps to get out of this treaty, as the treaty gave us the right to do, somehow this would cause another cold war, an arms race with Russia, and do all kinds of damage to our relationship.

President Bush worked on this, and the Russians knew this was not critical to their defense. We knew it was not critical to the Russian defense. What was important about it was it was complicating our ability to develop a missile system that made sense. Under that treaty, we were trying to build a system that could have only one location for the missiles. It has to cover the entire United States from that one system. The treaty explicitly prohibited mobile systems such as ship-based; it kept us from developing a system that would take out missiles in the launch phase; it would have kept us from doing space-based defense systems, all of which were prohibited by the treaty.

President Bush was serious about national missile defense, and he took the steps to eliminate that. Indeed, Phil Coyle, who has been a big critic of the national missile defense system, in a recent quote in the newspaper said, with grudging admiration—I think he said, well, they are serious about it. And that is correct. This President is serious about producing a layered defense system for America.

We are doing it for the $7.6 billion in this year's budget. If we do this over a period of years, we are going to be able to successfully implement a system that can protect us from limited missile attack. It cannot protect us from the kind of attack the Russians could have launched, but it can protect us against limited attack, accidental attack, or rogue nation attack. We have that capability, and we should do it. We do not need President Bush sitting down eyeball to eyeball with Saddam Hussein, knowing Saddam Hussein can push a button and a nuclear weapon or a chemical or biological weapon that he has can hit New York City or some other American city. We do not need him in that position. He does not need to be there, and we can avoid that.

Great nations do not allow themselves to be in a situation where the ability to act in their national interest will be compromised by these kinds of threats by nations that have not shown themselves to have a commitment to civilized behavior. That is simply where we are.

So I believe this country needs to deploy this national missile defense system. I am sorry there are some who do not agree, and they have been consistent in opposing it in every way possible. I have to respect that, but we voted 97 to 3 to deploy it. Both Presidential candidates said they wanted it. We funded it last year at $7.8 billion, after a full floor debate, and we did not do it thinking that was going to be the only year we funded national missile defense. When we voted last year to fund national missile defense, we contemplated and considered that we would be funding it on a steady basis to complete a program as the President envisioned. We have to start now. They say these missiles are not able to reach us today. Well, it takes a number of years to develop, get the bugs out, and study this system so we have the best system.

The President has been tough about this. He cancelled the Navy theater-wide program that many people believed in, but it was behind schedule, over budget, and not performing, so he cancelled it. He said that is not getting us to where we need to go. He has shown he is willing to make tough calls, but the ultimate goal is to reach a situation in which we can deploy a system by the time our enemies have the capability of reaching us.

This Senate is at its best when we talk about important issues. I believe in many ways this one has been settled. The American people voted for two candidates who favored it in the last election. The President has pushed it forward. We funded it last year at the President's request; we should not come in now to take a big whack out of it and target programs that really are pretty key. These cuts have the unfortunate impact of undermining some of the work that would be done.

For example, it eliminates 10 THAAD missiles. Those are the theater missiles. When we have troops out on the battlefield in the theater of operations, if Saddam Hussein has a missile that will go 150 kilometers, then he can hit them if he cannot hit the United States. So we cannot deploy our people and leave them vulnerable to being annihilated by an enemy attack if we have the capability to defend it, and we do. The THAAD is going to be a highly successful program, but this bill, as it was voted out of committee over my objection, would eliminate 10 THAAD missiles that would be used for future testing and it would put the success of the program in jeopardy by not allowing it to fly through failures.

In other words, these programs have to be tested, robust tested. Some of the critics are probably correct in saying we did not have enough testing in the system. The President's budget will enhance testing.

The bill, as proposed on the floor today, delays or eliminates planning for promising boost phase programs. In other words, one of the best ways to knock down an incoming missile is when it is coming off the ground in the foreign country. So if it falls back, it falls back on their country. If it is missed, there still may be an ABM system in the United States that can knock it down later. If those systems could be knocked down through absolute communications capabilities in the region, sea-based capabilities, that would be ideal. All of that was prohibited in the treaty. That is one of the reasons the President got rid of it.

This bill, as it is today, would eliminate planning for promising boost phase programs. It eliminates sea- and space-based kinetic kill experiments in the field. It imposes serious risk to the airborne laser program by eliminating funding for a second aircraft testing program. It will not allow the airborne laser program to fly through failure, to figure out what will really work and make it successful. It imposes numerous tests and evaluation restrictions and duplicative oversight requirements on the Missile Defense Agency.

We have been very fortunate that General Kadish is head of this program. He is a man of ability, integrity, and steadfastness. He has nurtured it through good and ill. He has seen it hit successfully time and again in recent months, and he is leading it on through quite a successful program. It has been well managed. He is very concerned about these cuts. It will complicate his strategic vision of how to produce and deploy this system as we have told him we want him to do.

It is important to know that we have a man in charge who is capable and knows how to get the job done, and he is very troubled that we are cutting back in this fashion.

In sum, I note these cuts will expose the United States to unnecessary risks if we enact them. I do not believe they will be enacted. I believe we will vote to restore the cuts. I know the bill passed in the House of Representatives has this funding in it, and they will insist on it. I am not sure the President will accept the bill that has these large cuts in our national missile defense.

It is time to move ahead. I believe we can deploy a system that is layered in nature, that will have a shot at knocking down an attacking missile in a boost phase, that can hit in midcourse and defend again with a layer system on the land of the United States. Then we will not be in the bizarre situation of several years ago when we were trying to maneuver our national missile defense system to fit the ABM Treaty, to allow just one site to produce, that would limit testing and development in a lot of different areas.

We are on the right track. Let's stay the course. Let's not back up now. Let's not manipulate this program and endanger it. This is a small part, $800 million out of a $386 billion budget. Let's not gimmick around with it. Let's get on with it. Let's stay committed. We will save money in the long run and have a system that will protect the people of the United States from rogue attack, from nations that are desperately attempting to have an ICBM system such as Korea and Iraq.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MILLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO JUSTIN DART, JR.

Mr. HARKIN. Mr. President, Saturday was a sad day for America and for all who have fought so hard for the rights of people with disabilities in our society. On Saturday, our Nation lost one of its great heroes: My good friend, Justin Dart, Jr.

Justin Dart was the godfather of the disability rights movement. For 30 years he fought to end prejudice against people with disabilities, to strengthen the disabilities right movement, to protect the rights of people with disabilities. Millions of Americans with disabilities never knew his name but they owe him so much.

Justin was born August 28, 1930. His grandfather was the founder of the Walgreen Drug store chain. His father was also a very successful businessman. Justin was the son of privilege and wealth, but he became the brother of the forgotten and the downtrodden, those whom society left on the roadside of life. From the time that polio left him a wheelchair user in 1948, to this past Saturday when he passed away, Justin lived a life dedicated to social justice for people with disabilities and for all people regardless of race or gender or sexual orientation. He is, of course, best known as the godfather of the disabilities rights movement and the father of the Americans With Disabilities Act.

Justin was both a close personal friend of mine and a mentor for me on disability policy. When I first came to the Senate—after having worked in the House on a couple of disability issues because I had a brother who was disabled; I came to the Senate in 1985—at that time there was a big movement on to pass a Civil Rights Act for Americans with disabilities. I got caught up in that.

I wondered, is it possible we could ever pass a civil rights bill for people with disabilities? Through a set of circumstances and fate, I became the chairman of the Disability Policy Subcommittee and then became the lead sponsor of the Americans With Disabilities Act. It was under my sponsorship on that committee, and with the guiding hand of Senator KENNEDY of Massachusetts, who was the chairman of the full committee, that we were able to get the bill through both the House and the Senate, signed into law July 26, 1990, by President George Bush.

When I first got here and became involved with the disability rights movement and with the jelling, the pulling together of all these people to get the Americans With Disabilities Act passed, it did not take me long to realize it was Justin Dart who was pulling the pieces together. For so many years, the disability community has been segregated and segmented—the deaf community, the blind community, those who used wheelchairs, those with mental disabilities, those who had illnesses and diseases. Various forms of disability had their own segments but no one brought them together under an umbrella. It was the power and the force, the magnetism of Justin Dart that brought it together, that made it into a movement whereby we could actually get the Americans With Disabilities Act passed.

It was fitting that on July 26, 1990, we all gathered on the White House lawn for the biggest gathering for a bill signing on the White House lawn in the history of this country. It was a gorgeous, sunny day. We were all there. Senator Dole had been a great companion in helping get the bill passed on the Senate side; so many people from the House side, including Tony Coelho, STENY HOYER, but there on the platform was President Bush and Justin Dart. It was right that he was there on that platform.

When President Bush signed the Americans With Disabilities Act, he gave the first pen to Justin Dart. He truly was the one who brought us together and gave the inspiration and guidance to get this wonderful, magnificent bill through.

The rest, as they say, is history. Go anywhere in America today and you will see people with disabilities in workplaces, in schools, traveling with their families to restaurants, going to theaters, going to sports arenas. All new buildings have wide doorways, ramps everywhere. No building being built today is not accessible—because of the Americans With Disabilities Act, because of Justin Dart.

What a tremendous legacy. Justin was a recipient of five Presidential appointments, numerous honors, including the Hubert Humphrey Award of the Leadership Conference on Civil Rights. In 1998, Justin Dart received a Presidential Medal of Freedom, the Nation's highest civilian award. Before he passed away on Saturday, Justin left a letter. I don't know exactly when it was written. But I think Justin knew that his time on Earth was not going to be much longer. He had a series of setbacks. He lost his leg just about 3 years ago. We thought we lost him then, but, man, he came back strong and continued to lead. He wrote this letter, which is just so profound.

I ask unanimous consent to have this last letter from Justin Dart printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUSTIN DART, JR.
*Washington, DC.*

I am with you. I love you. Lead on.

DEARLY BELOVED: Listen to the heart of this old soldier. As with all of us the time comes when body and mind are battered and weary. But I do not go quietly into the night. I do not give up struggling to be a responsible contributor to the sacred continuum of human life. I do not give up struggling to overcome my weakness, to conform my life—and that part of my life called death—to the great values of the human dream.

Death is not a tragedy. It is not an evil from which we must escape. Death is as natural as birth. Like childbirth death is often a time of fear and pain, but also of profound beauty, of celebration of the mystery and majesty which is life pushing its horizons toward oneness with the truth of mother universe. The days of dying carry a special responsibility. There is a great potential to communicate values in a uniquely powerful way—the person who dies demonstrating for civil rights.

Let my final actions thunder of love solidarity, protest—of empowerment.

I adamantly protest the richest culture in the history of the world, a culture which has the obvious potential to create a golden age of science and democracy dedicated to maximizing the quality of life of every person, but which still squanders the majority of its human and physical capital on modern versions of primitive symbols of power and prestige.

I adamantly protest the richest culture in the history of the world which still incarcerates millions of humans with and without disabilities in barbaric institutions, backrooms and worse, windowless cells of oppressive perceptions, for the lack of the most elementary empowerment supports.

I call for solidarity among all who love justice all who love life, to create a revolution that will empower every single human being to govern his or her life, to govern the society and to be fully productive of life quality for self and for all.

I do so love all the patriots of this and every nation who have fought and sacrificed to bring us to the threshold of this beautiful human dream. I do so love America the beautiful and our wild, creative beautiful people. I do so love you, my beautiful colleagues in the disability and civil rights movement.

My relationship with Yoshiko Dart includes, but also transcends, love as the word is normally defined. She is my wife, my partner, my mentor, my leader and my inspiration to believe that the human dream can live. She is the greatest human being I have ever known.

Yoshiko, beloved colleagues, I am the luckiest man in the world to have been associated with you. Thanks to you, I die free. Thanks to you, I die in the joy of struggle. Thanks to you, I die in the beautiful belief that the revolution of empowerment will go on. I love you so much. I'm with you always. Lead on! Lead on!

JUSTIN DART

Mr. HARKIN. I will not read the whole thing but I feel constrained to read parts. He said:

I am with you. I love you. Lead on.

DEARLY BELOVED: Listen to the heart of this old soldier. As with all of us the time comes when body and mind are battered and weary. But I do not go quietly into the night. I do not give up struggling to be a responsible contributor to the sacred continuum of human life. I do not give up struggling to overcome my weakness, to conform my life—and that part of my life called death—to the great values of the human dream.

Death is not a tragedy. It is not an evil from which we must escape. Death is as natural as birth. Like childbirth, death is often

a time of fear and pain, but also of profound beauty, of the celebration of the mystery and the majesty which is life pushing its horizons towards oneness with the truth of mother universe. The days of dying carry a special responsibility. There is a great potential to communicate values in a uniquely powerful way—the person who dies demonstrating for civil rights.

Let my final actions thunder of love, solidarity, protest—of empowerment.

I call for solidarity among all who love justice, all who love life, to create a revolution that will empower every single human being to govern his or her life, to govern the society and to be fully productive of life quality for self and for all.

That was written by a man who knew he was dying.

Justin continues:

I do so love all the patriots of this and every nation who have fought and sacrificed to bring us to the threshold of this beautiful human dream. I do so love America the beautiful and our wild, creative, beautiful people. I do so love you, my beautiful colleagues in the disability and civil rights movement.

My relationship with Yoshiko Dart includes, but also transcends, love as the word is normally defined. She is my wife, my partner, my mentor, my leader and my inspiration to believe that the human dream can live. She is the greatest human being I have ever known.

Continuing to speak about his wife he said:

Yoshiko, beloved colleagues, I am the luckiest man in the world to have been associated with you. Thanks to you, I die free. Thanks to you, I die in the joy of struggle. Thanks to you, I die in the beautiful belief that the revolution of empowerment will go on. I love you so much. I am with you always. Lead on. Lead on.

He was truly one of the most beautiful humans with whom I have ever been privileged to associate. We shared many memorable moments together. I was proud to be at his side when he received the Medal of Freedom from President Clinton. But I always remember best, and forever in my mind's eye will be embedded, him sitting there, next to President Bush when President Bush signed the Americans with Disabilities Act.

Not many people know it, but Justin Dart, with that wheelchair and his wonderful wife Yoshiko, visited every one of the 50 States in order to lay the groundwork for the passage of the Americans with Disabilities Act. And Justin knew that our work did not end with the ADA. He knew it was just the beginning. Even just a few short weeks ago he attended a rally I was at for MiCASSA, the Medicaid Community-based Attendant Services and Supports Act, a bill that Senator SPECTER and I are cosponsoring.

I was surprised that Justin was there but very pleased to see him leading, as usual, even though I knew that his health had not been good. He had to curtail many of his activities. But we had a couple of hundred people there from the disabled community and, I am telling you, his voice was as strong and as powerful and as persuasive as I have ever heard, and that was just a couple of weeks ago. To the very end he had that fire in his eyes and that strong voice.

In the final week before he passed away, Justin personally attended four events to push for more civil rights for people with disabilities. He never hesitated to emphasize the assistance he received from those working with him—as you can tell from the letter I just read, most especially his wife of more than 30 years, Yoshiko Saji. She was, as he often said, quite simply the most magnificent human being. As in life, Yoshiko was at his side when Justin passed away this weekend. He is survived not only by Yoshiko and their extended family of foster children, many friends, colleagues and relatives, but also by millions of disability and human rights activists all over the world.

The average American may not ever have heard of Justin Dart. They may go through their lives never having heard of him. But I will tell you this, any person with a disability in this country who has struggled and fought, gone to school, moving ahead in life, they will know who Justin Dart was and they will know what he did for them and for our country to make our country more inclusive, to bring us altogether.

So I will personally miss Justin Dart: that strong voice, the cowboy hat and the cowboy boots, that piercing gaze of his that sort of stripped away all the phoniness of life. When he rolled up in that wheelchair and he got in front of a microphone and started to speak, it was power, passion, commitment. It will not be the same in the struggle for civil rights for people with disabilities. It will not be the same in our struggle for MiCASSA, which we have to pass.

People with disabilities are about the only ones left in our society where the Government decides what they are going to do with you rather than what you do with the money. MiCASSA says that, basically the money should follow the person—not the person following the money.

Quite frankly, it was a Georgia case in which the Supreme Court decided that people with disabilities had to first be able to live in the most open setting, in a community-based setting in their homes and in their communities rather than institutions. It was a great case in the State of Georgia.

This legislation is proposing what Justin worked so hard for—basically to say let the person decide, let that individual decide whether they want to live in their home and not in a nursing home.

That is what this fight for MiCASSA is all about. I am sorry we didn't get it passed before he passed away. But I can assure you that the fight will continue. We will not rest until people with disabilities have all the rights that people without disabilities have in our society.

Justin will be remembered as a person who removed all these barriers. We will miss his passion, his sense of justice, his unwavering leadership, and, as I said, his strong and clear voice. Justin Dart will continue to inspire us to carry on. His message will continue to speak for the next generation of leaders. I always said to Justin: Hang in there.

We almost lost him a couple of years ago when his leg was removed. I said: Justin, you have to hang in there. He always said: There are more behind me. And there are. A whole new generation of young people is coming up under the Americans with Disabilities Act. They have been able to go to school, they have gotten an education, and they are moving on. They are not going to let the clock be turned back.

I am convinced that sooner, rather than later, we will get the MiCASSA bill passed and permit people with disabilities to live in their own homes. We will do it in the name of Justin Dart. In his name, we will remove the last remaining barriers.

Mr. JEFFORDS. Mr. President, I rise today to honor the memory and the spirit of Justin W. Dart Jr., a tireless advocate for the rights of disabled persons, who passed away on June 22 at his Washington home at the age of 71.

I feel so privileged to have had the honor of knowing and working with Justin. Many on Capitol Hill may remember him, in his cowboy hat, offering critical input as we worked to draft the Americans With Disabilities Act.

On July 26, 1990, Justin was at the side of President George Bush when the President signed the bill into law. Justin referred to that event as ''a landmark date in the evolution of human culture,'' and we all have Justin to thank for his immeasurable gift to that evolution.

Justin was tireless in his travels, visiting all 50 States, not once but at least four times, to promote the ADA legislation. He also traveled around he world to advocate for full civil rights protection for people with disabilities.

In 1998, he once again found himself at the side of a President, this time Bill Clinton, who presented Justin with the Medal of Freedom, the Nation's highest civilian honor.

It would be impossible in this short tribute to list the awards and accomplishments that marked his life, but it is fair to say that Justin Dart, who used a wheelchair from the age of 18 after contracting polio, found his calling in life. And we are all much richer for the experience.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the role.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, I have been following the proceedings over the last day or so with increasing concern. As we said last week, we all know that this legislation has to be completed this week. I had hoped, because of the agreement we were able to reach among leadership last week, that we would table nonrelevant amendments, that we would be able to move expeditiously with amendments on those issues for which there was an interest, and that we would accommodate these amendments in a way that would allow us to move the consideration of this bill along successfully. I guess I was overly optimistic.

Frankly, I am very disappointed, in spite of that agreement, in spite of the efforts we have made to encourage Senators to come to the floor, and in spite of the fact that we know there is so much that still needs to be done, that we are at a procedural impasse.

I, frankly, know of no other recourse but to file cloture. That is the only way we can be absolutely certain we will complete our work before the end of this week. I have indicated that lament to the Republican leader.

I have noted with some concern to our managers that unless we do, I see no really practical way we can complete our work and perhaps accommodate other issues and other needs legislatively before the end of this week and before the Fourth of July recess.

Frankly, I don't know what the impasse is now. I thought we had reached an agreement on one of the amendments. At the very last minute, it appeared that in spite of that agreement there was opposition on the other side. And that precluded the opportunity to move forward on at least one of these issues.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion have been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 2514, the Defense authorization bill:

Harry Reid, Jon Corzine, Richard Durbin, Tom Harkin, Carl Levin, Mary Landrieu, Tom Carper, Ben Nelson, Ron Wyden, Daniel Akaka, Debbie Stabenow, Evan Bayh, Maria Cantwell, Herb Kohl, John Edwards, Jeff Bingaman, Joseph Lieberman.

Mr. DASCHLE. Mr. President, I will indicate to all colleagues that we will not leave this week until this bill has been voted on and final passage. I hope that won't be the last piece of legislative work we do. I hope we will even be able to work on a couple of the nominations. There are a number of issues on the Executive Calendar that could be addressed. But we can't do anything until we have completed our work here.

Senators should be aware that there will be a cloture vote on Thursday morning. That will then trigger a 30-hour period within which this work must be completed so that we have a guarantee that at least before Friday afternoon the legislative time will have run out and we will have an opportunity to vote on final passage. I regret that I have to do this, but I see no other recourse.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the role.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I yield myself time under leader time to respond to the action just taken by Senator DASCHLE. Having been in his position, I certainly understand why he is doing that. I think it is the right thing to do in this case.

We clearly need to move this Defense authorization bill forward, as we did the supplemental. We need to get an agreement on that and provide additional funds for defense and homeland security.

We also need to get completion of the Defense authorization bill before we leave for the Fourth of July recess. How could we celebrate the freedom of the country without having done our work on the Defense bill in view of all that we are dealing with at home and abroad?

So I think the majority leader was in his rights, and I would plan to support his cloture motion unless we can come up with some agreement that would allow us to save time by vitiating that. But I pledge my continued support to try to get this bill done in an orderly fashion at a reasonable hour, hopefully Thursday afternoon or early or late Thursday evening.

I just want to be on record that I understand why he is doing it, and I think it is the right thing, all things considered, at this time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, in light of this development, it is safe to announce there will be no more rollcall votes for the remainder of the day.

I yield the floor. And if no none is seeking the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I will give a few remarks. If anyone needs the floor, I will be glad to yield.

I think it is important for us to recognize, as we go forward with this new national missile defense system, that we are moving into a new era.

We had the ABM Treaty in 1972 that was the cornerstone of a mutual assured destruction strategy between the United States and the Soviet Union. We both agreed we would not launch missiles against one another and we would not, under the treaty, explicitly build an antimissile defense system. Not one of us would, leaving each other vulnerable to one another.

The treaty only has six or seven pages. It is in the appendix of this book that I have in the Chamber. The reason I want to share it is because a lot of people wondered why, 6 months ago, President Bush chose to get out of the treaty. And that took effect just a few days ago when the 6 months ran from the notice he gave in December.

This treaty really kept us from defending ourselves. In the first article it says:

Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region. . . .

We basically said we could not deploy one. It says that again in several places here.

Article V says—and this was the conflict we were having, the problems we were having:

Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

Much of our new scientific development in recent years indicates that sea-based, air-based, space-based has the capacity to help us protect our homeland from missile attack.

Earlier this afternoon I read some quotes from the vice admiral in charge of the Defense Intelligence Agency in which he said China was developing a mobile-based IBM system. China was not party to the treaty; neither was Korea, neither was Iran, Iraq, and North Korea. They were not a party to the treaty. All those countries are striving to develop a missile system.

China, according to the intelligence report, is, in fact, developing a mobile land-based system. According to this treaty we had with the Soviet Union—a country that no longer exists—that treaty prohibited us from doing that or having a sea-based or an air-based system. This was getting really out of

control. In other words, we had a treaty in 1972 that made sense, when we had no other nations, virtually, except the Soviet Union with a ballistic missile system.

We are moving into an age where 16 countries have a missile system. Some of those are virulent rogue nations that desire us harm. We had this treaty that kept us from preparing a defense to that.

Some people forgot, also, that under the treaty there were some exceptions. We chose one route and the Soviet Union chose another one, which was to build a national missile defense around Moscow. They, in fact, deployed a missile defense system, under their option, around Moscow. But we were prohibited from doing that.

President Bush took a lot of grief. You remember it. They said he was acting unilaterally. And the Socialist left in Europe went up in arms that the United States should not get out of this treaty. Some in Russia said it was a mistake, and they objected. But the truth is, I think they were just negotiating with us for a good deal.

President Bush was steadfast. He stayed the course. The National Security Adviser, Condoleezza Rice, was consistent; she never backed off. They made clear that at this point in history the mutual assured destruction that existed between us and the Soviet Union was out of date. We now hope to have in Russia a friend, not an enemy. It was an entirely different nation. What our threat was—and we learned on September 11 just how real this was—was from rogue nations. And we ought to be able to begin to prepare as to how to defend ourselves from that.

In 1999, Secretary of Defense Rumsfeld chaired a commission to study the threat posed to the United States from ballistic missile attack. That was a bipartisan commission. And they studied the issue intensely. The commission unanimously voted that the United States was facing a threat from missile attack by other nations. They unanimously agreed that the threat was coming much quicker than had been predicted earlier, and that by the year 2005 we could be subject to missile attack from other nations.

So that is why the Nation decided, in 1999, to go forward. It was a dramatic vote in this Senate when we voted 97 to 3, with Senator THAD COCHRAN, who spoke earlier this afternoon, being the prime proponent of the legislation. But in addition to Senator COCHRAN, one of his prime cosponsors was Senator LIEBERMAN, the Democratic Vice Presidential candidate last year, and one of the leading senior members of the Armed Services Committee. They proposed the language that, in 1999, stated we would deploy a national missile defense system as soon as technologically feasible.

We made that decision. We funded it. President Clinton proposed a $5.3 billion budget for national missile defense to carry out that objective.

President Bush, during the campaign, said he believed we ought to be moving more aggressively, that the threat was more real than some thought. He wanted to step up the pace, and he did do that. He proposed an increase when he became President of about $2.5 billion over the $5.3 billion, making it a $7.7 billion national missile defense budget. That was passed by this body. We had a dispute in committee, and on a party-line vote the increase was not backed in the committee. But when we got to the floor, the full amount was affirmed on voting.

So this year the President asked for a little bit less. He asked for a $7.6 billion or so expenditure for national missile defense. He did not ask for an increase over last year but actually asked for a small reduction as compared to last year's expenditure. But, again, that was one issue that we disputed in the Armed Services Committee, and on a straight—unfortunately, I thought—party-line vote, $800 million was taken out of the national missile defense fund.

It was taken out in a way that General Kadish, who has managed this program with integrity and skill and determination, said would damage the program significantly.

I don't believe we ought to allow that to stand. I believe the full Senate needs to review it and replace that money. Let's do what the President asked. Let's give him the money he requested. Let's keep this plan to build a national missile defense that will include sea-based, mobile land-based, multiple land-based, and space-based, if appropriate, capabilities that will allow us to hit the incoming missiles in their launch phase, midphase, and in the terminal phase, all of which we have the capability to do.

The tests that have been running have been successful. We have been able to have head-to-head collision, bullet-hitting-bullet, high-over-the-ocean, smashing and destroying missiles. We are going to continue to test it under the most rigorous conditions. I believe this process we are undergoing will be successful, and we will prove that we have the capability to destroy incoming missiles even with decoys, even under the most hostile conditions. That is what we ought to do.

The total price of it, the $7.6 billion the President asked, out of a $386 billion defense budget that we are putting up this year, is reasonable and appropriate. It represents not a step to cold war but a step to a new, positive relationship, away from mutually assured destruction, away from the hostility we had with the Soviet Union for so long, to a new open day in which we are actively engaged in the world, but a day in which we don't have rogue nations being able to intimidate us, being able to intimidate the President, being able to threaten our country with attack that would have to cause him to pause. It would have to affect our defense policy, if that were to be the case.

I believe this will move us away from it, give us freedom to act in our just national interest. I urge the Senate to move forward with approval of our President's budget and the Warner amendment.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Nevada.

Mr. REID. Madam President, I know my friend from Nebraska, the distinguished Senator, is here. I ask unanimous consent that the Senator from Nebraska, Mr. HAGEL, be allowed to make a statement on the underlying bill, that during that period of time there would be no amendments offered to the bill; following the statement of the Senator from Nebraska, the Senate then proceed to a period of morning business for the rest of the evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. HAGEL. I thank my distinguished colleague and friend, the senior Senator from Nevada.

I rise today in support of the Warner amendment, an amendment that will restore the $814 million cut from the President's request for missile defense funding. Last December, President Bush made the decision to withdraw the United States from the constraints of the Anti-Ballistic Missile Treaty of 1972, the ABM Treaty. That treaty went out of existence on June 13. The United States is no longer constrained by cold-war-era treaty requirements.

I supported President Bush's actions to withdraw the United States from the ABM Treaty, which I believe demonstrates his commitment to America's defense. The ABM Treaty was an important treaty. It defined the strategic policy of our Nation and defined the strategic nuclear policy of an era because at that time in 1972, the ABM Treaty was signed by two countries: the Soviet Union and the United States, the only two countries that had the capacity to launch all out nuclear war.

The world has changed—the world is dynamic—since the ABM Treaty was signed, and the policy of mutually assured destruction that formed the cornerstone of our nuclear deterrent policy is gone.

Now, as September 11 has made brutally clear, we face varied threats from terrorists, individuals, nations, organizations, and those that support them. These threats, these challenges come in many forms. Currently, 12 nations have nuclear weapons programs; 28 nations have ballistic missiles; 13 nations have biological weapons; and 16 nations have chemical weapons.

These new realities mean we must place a greater emphasis on defense—all forms of defense. Unfortunately, the defense authorization bill reported out of the Senate Armed Services Committee takes a step backwards with regard to missile defense.

The $814 million cut will have a profound effect on U.S. efforts to continue research and important development and eventually deploy an effective missile defense system.

In addition to the proposed cuts in research and testing, nearly 70 percent of the Missile Defense Agency's civilian jobs and related costs could be eliminated if the current legislation we are debating is enacted. These cuts would severely hamper the Missile Defense Agency's ability to conduct day-to-day business. That means tests. That means research. That means development. That means a better understanding of the integration of these new defense capabilities into our overall national security system.

This is very important. It isn't one test. It is not one program. It is not one system. It is an integration of all these strategic balances that now become the dynamic of our national security system: Offensive weapons, now defensive capabilities to guard against not just ballistic missiles but tactical missiles, nuclear, biological, weapons that can be delivered and delivered anywhere in this country.

We seek a broad array of research, development, and testing activities to yield a system as soon as feasible, not any system but a relevant, realistic system that in fact has the capability to defend this country and our allies. This is not one monolithic umbrella over just this country. Our deployed forces overseas, large groupings of our deployed forces all over the globe, must be protected. Our friends and allies rely on the United States. This is a large, profound, critically important project. It cannot be accomplished, defined in a year or 2 years. But in the interest of our country and its future security, it is quite clear that we need a national missile defense system.

The Armed Services Committee's actions in the bill they reported out of committee would hamper this objective. If the current Senate version of the missile defense budget were to stand, Secretary Rumsfeld would recommend that the President veto this legislation.

It is important to note how missile defense interconnects with our broader security and strategic policies. In February, I visited the U.S. Strategic Command in Bellevue, NB, the headquarters of our military nuclear strategy.

At 1 o'clock tomorrow afternoon, Secretary Rumsfeld will announce that Offutt Air Force Base in Nebraska will become the new headquarters for a merged SPACECOM and STRATCOM facility with new responsibilities to face the new challenges and threats of our day.

Missile defense will be part of that new merged command and will bring Space Command and Strategic Command together. When I was at Offutt Air Force Base earlier this year, I was briefed on how defense policy was moving beyond the cold war nuclear triad of missiles, bombers, and submarines.

One leg of the new triad would consist of our old nuclear capability, but it would be supplemented with both conventional military superiority and an effective missile defense system—integrating the systems. In forging this new triad, the United States could significantly reduce our nuclear arsenal, while at the same time protecting our country, our troops abroad, and our allies from limited missile threats and possible missile blackmail from rogue regimes, terrorists, and other nations.

Today's New York Times ran a story discussing a course that this transformation could take. It described a possible new Unified Combatant Command that could ''combine the military network that warns of missile attacks with its force that can fire nuclear and nonnuclear weapons at suspected nuclear, chemical, and biological weapons sites around the world.''

We are in the process of making this new strategic framework a reality. It is our highest responsibility—the security of this Nation, the security of our men and women around the world, whose only objective is the security of this Nation. We have a responsibility to our allies. We must recognize that the threats facing our Nation are changing, and we must restructure, reorganize, and adapt to these new dangerous threats.

Missile defense will play a significant role in protecting our country, our allies, and our deployed forces. I might say, isn't it interesting that under President Putin, the Russians are working closely with our defense establishment to work through these new mutually beneficial strategies and finding ways to cooperate in both of our interests.

The threats to the United States are not unique to the United States. These threats are threats to Russia and to nations all over the world. A missile defense system for the United States and our allies is not mutually exclusive from the interests and benefits of Russia. With President Bush's recent trip to Russia, that was formalized in two very important documents that were signed by Presidents Bush and Putin.

So it is not a matter of a unilateral course of action for the United States to pursue missile defense. It is in the interest across the globe of all peoples who wish to make the world safer, more secure, more prosperous, more peaceful. And why is that? It is as much about defining opportunities and hope for the world as any one part of this equation or this debate. What we are facing in the Middle East, Afghanistan, Central Asia, Indonesia, the Philippines, and South Asia cannot be disconnected from this total development of policy that makes the world safer and more secure and more stable for the benefit of all people. These are factors that are not often pointed out in this debate about missile defense.

Madam President, I urge my colleagues to take a close look at Senator WARNER's amendment to put this funding into this Defense authorization bill—maybe as important a Defense authorization bill as we have seen in this country in many years. I hope my colleagues will read through what the amendment does. It is very simple: putting the money back in.

I want my colleagues to take it the next few steps and ask themselves the consequences for slowing down missile defense development in this country.

We, too often, get disconnected from the objective of the debate in Congress because we get snagged in the underbrush of the nuance, or the amendment at the time, or the argument at the time, or the newspaper headline tomorrow, or defending an amendment to an amendment; and we lose sight of the horizon, where do we go, why, and what is the point, and what is the bigger picture, the wider lens that is required? This is such an amendment. This is a wider lens amendment.

I hope Senator WARNER, when he introduces his amendment, will get a vote on that amendment. I hope this Senate will come forward with the votes to support Senator WARNER's amendment because it is not just about how much damage we would do to the security interests of this country; it is about more than just that strategic and military dynamic. It is about the future course of our foreign policy, the enhancement of our relationships, and the ability to help bring peace and stability and prosperity to the world. This is what we debate.

Defense is not just defense. Defense is about allowing a nation not just to defend itself but to prosper and reach out to help other nations and make the world safer. That is the big picture. That is what we pray for—not the amendment.

So, again, I urge my colleagues to take some time to understand what this is about and the consequences of their vote. I am a cosponsor of Senator WARNER's amendment. I have believed for some time that it is a responsible and relevant approach as part of our larger framework of interests and, certainly, strategic defense policy for our future.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I rise in opposition to the Warner amendment, and I wish to take as much time as I may consume.

The PRESIDING OFFICER. The Senator may proceed.

Ms. LANDRIEU. I thank the Chair.

Madam President, I rise, as I said, in opposition to the Warner amendment. The Warner amendment calls for the elimination of about $814 million in the

underlying bill that has been directed to much-needed investments in the Department of Defense to ward off the many threats that are facing our Nation today in a very responsible manner, I wish to add.

I thank Chairman LEVIN, the Senator from Michigan, for his outstanding work on pulling together this underlying bill. I particularly thank our subcommittee chairman, Senator JACK REED, who has worked very hard on this particular provision. I acknowledge their good work in this area.

I rise in opposition to this amendment as a supporter of missile defense—not as one of its critics, not as a detractor for the missile defense system.

The Warner amendment is unwise and unnecessary for two reasons, and I wish to comment about both reasons.

First, the thrust of the amendment rests on very shaky fiscal parameters. Senator CONRAD has spoken very well and clearly on this subject, but one of the problems—not substantive but technical problems—with this amendment is that it basically taps into revenues that do not exist. There is no ''real offset'' for this amendment. There is a claim of an offset, but it is going to be very difficult, if not impossible, to materialize that offset because of the thrust of this amendment.

It says basically that this money is going to be found by anticipating fluctuations in the inflation rate, assuming that the inflation rate is going down when it is probably rising. Nonetheless, this money is not a real offset. It is based on very shaky fiscal principles, and that is one of the reasons I do not think we should support this amendment.

The second reason, however, is a stronger argument, and it is more important, although the first argument is something to consider because if we do not consider it, then any Member of the Senate could offer any amendment to add $100 million, $50 million, $400 million, $600 million and say we are going to find an offset because we think inflation is going to move one way or the other, and so we are going to guess that the money may be available. It is a very bad precedent when we are talking about this much money in a time of tightening budgets and greater demands on the Federal budget, both domestic spending as well as military spending. I think it is a strong argument.

The stronger argument is that it is wholly unnecessary to restore this amendment and claim that it in any way enhances or pushes forward and strengthens missile defense, because it does not. I would argue in some ways it will weaken our overall Defense bill, which is why I oppose it.

Why do I say that? In the underlying bill, without the Warner amendment, we are spending 25 percent more for missile defense than we did 2 years ago, up to $6.8 billion, up from $5.1 billion when President Clinton was in his last year in office. Let me repeat, in the underlying bill, without the Warner amendment, there is a 25-percent increase in the Missile Defense Program.

Democrats and Republicans on the committee, and Democrats in particular on this amendment, have supported a robust development of missile defense. We want to support the President in a strong Defense bill. We have met and exceeded the dollars he has asked for, but what we are saying and what I am suggesting is that the committee work has rewarded success in this program of missile defense. It acknowledges that it is important to develop a missile defense program for the United States, not undermining it, not cutting it, not trying to bury it, but to support it. That is what the underlying bill does: It rewards success, cutting out its redundancies and demanding the appropriate oversight that the American taxpayers deserve.

This, after all, is a $7 billion program—not million; $7 billion. I have observed in my time in Congress—Madam President, perhaps you have observed this, too—that sometimes we give more scrutiny to a $164 welfare check or a $1,000 credit card charge or a $2,000 rebate that a small business might get from a subsidy, and we go over that with a fine-tooth comb to make sure that welfare mother, that small business owner, or that person just ''doesn't get away with murder'' with spending or mishandling $164 or the $2,000. Yet with a $7 billion program, we want to say: Let's not look at the details; this is what the President asked for; let's just do it that way exactly; they couldn't possibly be wrong even by a percentage point; they couldn't be off 1 penny. I think that is very hard, if not impossible, to accept as realistic.

This bill looks carefully at the $7 billion program—and we did this in every program in the Defense bill—again, not undercutting it at all, matching the President's dollars, but shifting things around to make sure we can have a very good missile defense program.

We could also address some immediate threats that everyone now in America, if they did not know it before September 11, knows now, and we all know as each week unfolds more and more clearly the other immediate threats, chemical, biological, nuclear threats, weapons of mass destruction, potentially poised against our Nation.

The challenge is before our military to invest in their readiness, in their equipment, in their mobility, and in their restructuring. We know that we are not fighting the cold war anymore and we will not fight the cold war ever again, but we will be fighting this asymmetrical threat and so we want to have a strong military budget, a robust military budget, and allocate these funds accordingly.

The underlying bill did that. It took a very small percentage of the overall missile defense, and as Senator REED has so eloquently pointed out and let me restate, we reward success in the underlying bill. The Patriot Advanced Capability-3 system has tested well against multiple targets. That is part of the Missile Defense Program. It does not pass every test.

Sometimes the critics of missile defense will point out, no, we cannot have it; this test failed. Well, in every success there are failures. We will fail a time or two, but if we continue to invest, continue to be wise and spend our money well, watching our budgets carefully but not undercutting this program, we can develop an effective missile defense system not only for ourselves but our allies and protect America in the future.

The Patriot Advanced Capability-3 system has not passed every test, but its future to protect our allies and soldiers looks bright. Accordingly, the committee fully funds this part of the missile defense system, bringing it closer to deployment.

Another part of the missile defense is the research program that we are doing in conjunction with Israel and others, but primarily Israel, the Arab program. It is a theater-wide missile defense system that we are developing. It has fared very well to date. Threats against Israel and U.S. forces in the Mideast certainly are real. Our committee increased funding for this project, again rewarding success, identifying what parts of the Missile Defense Program are successful and moving forward, using the money wisely and having success. We are supporting that.

The subcommittee made some very smart recommendations. It looked at the whole $7 billion and it found in one instance—this is only one example—that the administration had asked for $371 million versus $202 million last year for systems engineering and integration. The request is more than the Pentagon can spend on system engineering. In committee, in a public hearing, DOD was unable to justify the request. Still, the committee added $29 million for a 13-percent increase to systems engineering and design, giving the benefit of the doubt but thought that would be a good place to move some money into some other important things in defense, which is our job as Members of Congress.

I am proud we met the President's target on defense. I argued, let us not give one dollar less. If we can, let us give more. Some people have a different view, but I believe we need to support our defense in every way possible.

I think moving this money to fund other activities in the Defense bill is not only wise, it sharpens our Missile Defense Program and sharpens our overall Defense bill and our budget. There are numerous examples like the one I gave about engineering and integration, which is what this committee did.

The Warner amendment is unwise in a fiscal way. It is irresponsible to claim revenues that do not exist, to hope

they materialize, and then, if they do not, the budget situation is made much worse.

But on a deeper level and a more important level, the amendment is unwarranted and unjustified because there is a robust budget for missile defense in this Defense bill. We have shifted some of the money, and I will talk about why we have tried to shift the $814 million that we identified as unnecessary, redundant, or unjustified to other programs in the military because there are, in addition to the threat from a missile that might come to this country from Iran or Iraq or North Korea or one of the other rogue nations, there are real and immediate threats and, I would argue, more present threats.

Not that I do not believe missile defense is a threat. I do. Not everyone in Congress does, but I do believe it could be a threat and we need to deploy a system that will be cost effective to the taxpayer as well as technologically effective.

In moving the $814 million to sharpen our Missile Defense Program and to sharpen our overall budget, we invested $124 million into hardening nuclear facilities against terrorist attacks. We have many nuclear facilities in this Nation. We have labs committed to the development and exploration of nuclear materials. DOE asked for it in the budget submission, but it was turned down.

We have all seen reports of threats against our nuclear facilities. We know that whether one is in New York, in Louisiana, in Arkansas, or in some other place where nuclear facilities are present, the community is concerned, as they should be.

Is our Government doing everything it can to protect us, to harden these facilities against attack? I think every Member of this Senate would like to be able to say we have added over $120 million to our nuclear facilities to provide tougher perimeters and systems that will protect from a terror attack.

We have heard testimony not just before my Emerging Threats Subcommittee but many of our subcommittees about the importance of that. We took part of the savings that we identified and redirected it to shipbuilding. Shipbuilding is important to Louisiana. It is not just important to Mississippi because Ingall's Shipyard is there. It is not just important to Maine because of our colleagues, Senator SNOWE and Senator COLLINS. Shipbuilding, ship procurement, and the sustaining and maintenance of at least a 310-ship Navy is very important to our military strategy. There has not been one committee that I have attended since I have been on the Armed Services Committee, whether we are talking about the Pacific, the Atlantic, the Caribbean, or other places in the world, that the admirals and the generals, the men and women in uniform, representing and protecting our Nation, have testified to anything other than a 310-ship Navy as an absolute minimum.

There was a point in our history we had 900 ships. Now maybe we cannot afford 900 ships. Maybe we do not need 900 ships, but in this new world of asymmetrical threats, where we cannot wait for the enemy to come to us; we need to go to them, there are only two ways basically to get there: either by water or by air. We have to have both. We cannot rely only on our Air Force capabilities. We have to have a strong, robust Navy to fight on these battlefields wherever they might be, to transport our troops, to do it effectively, to do it safely.

There is not a Member, I do not think, and particularly Senator WARNER from Virginia, who comes from a huge Navy State, to argue that this was a poor or not thought-through reallocation of this money. Without it, we cannot build and continue to carry out our LPD–17s and other important shipbuilding and procurement that is underway right now with the Navy.

Four thousand sorties have been flown from Navy ships in the Arabian Gulf. Our surveillance airplanes, our fighters, and our bombers get a lot of attention, but many of those sorties begin by lifting off from our aircraft carriers and from places that are bringing this equipment and these platforms and giving them a place to take off, refuel and take off again, to protect us from the threats of terrorism and other threats around the world.

As we have seen in Afghanistan, we are in an age of war, fighting where we cannot forward-deploy our Armed Forces land-based near the theater. We are blocked by unfriendly nations from being able to fly over or to land at bases. Our Navy provides those places of security, those places for our armed men and women, our forces to regroup to get ready and take off for battle.

At a time when the Navy is so vital to our war effort, the Navy could in this budget fall below 300 ships. This $690 million readjustment, or additional investment, taken from a program, while important, is not in the least bit delayed or undermined and will go a long way to strengthen our Navy.

We add money for other counterterrorism priorities in this budget. We have moved some money—a good bit of money, but a very small percentage of the overall funding—from missiles to other parts of the budget that are crying out to be addressed: Our shortage of ships in the Navy, our need to secure our nuclear facilities, and there have been several other investments in counterterrorism.

That was a wise decision. I was proud to support it in the committee. I urge my colleagues to reject the Warner amendment and to support Senator LEVIN and Senator REID in this effort.

I quote Gen. Henry Shelton, former Chairman of the Joint Chiefs of Staff, on his view of threats posed by military ballistic missiles and weapons of mass destruction. General Shelton is a very decorated leader of our armed services. His reputation is without question. He said within this last year there are other serious threats out there in addition to that posed by ballistic missiles. We know, for example, there are adversaries with chemical and biological weapons that can attack the United States today. They can do it with a briefcase, by infiltrating our territory across our shores or through our airports.

This underlying bill is attempting to address this real, broad, and asymmetrical effect. It can come from missiles, it can come from a briefcase, it can come from a container through one of our ports, it can come through a bomb planted in the back of a U-haul pickup truck, against any number of targets. This city, Washington, DC, our Capital, is rich with targets, but so are all the cities, including the home State of Washington of the Presiding Officer and my State of Louisiana.

The taxpayers want us to make sure we are not just spending a lot of money on defense but we are spending it wisely, in the right places, and we are not overspending in one area and leaving ourselves vulnerable in another. Protecting our nuclear powerplants and supporting missile defense we can do. Investing in counterterrorism and supporting missile defense we can do. Building a strong Navy and supporting missile defense we can do. But we have to be smart about it and not just with some political slogan that looks good at election time. I am afraid that is what this is all about.

Let's have a strong Defense bill, a smart Defense bill, a bill that matches the President more than dollar for dollar but makes good and wise choices about how we are spending those dollars.

As a supporter of missile defense, I argue strongly against the Warner amendment and urge my colleagues to support what the committee did. This will be a very important vote, along with some other tough votes we will have to take regarding transportation and setting good priorities in our Defense bill.

As the article on the secrecy shield in the Washington Post suggests, if we are going to spend $7 billion—and I support building the program—let's do it in the right way and make sure there is full public disclosure. There could be some aspects we do not want on the front page of every newspaper, but give the taxpayers the best missile defense system. Spend their money wisely. By putting up a secrecy shield, which is what this article based on a recent report that has come out is claiming, I believe as we move forward with our missile defense system, it needs to be done with full disclosure, without jeopardizing those features that might have to be kept in a classified position, so the taxpayers can be sure we are spending their money wisely.

In the words of General Shelton, there are many threats facing our Nation. The bill we are debating today is about preparing ourselves for all of those threats, allocating our resources wisely by making very good decisions. Lives depend on it. The strength of this Nation depends on it. Our future and the future of our allies depend on the decisions we make in the next few days on this very important bill. This is one of those decisions.

Let's say we are going to shift money, strengthen missile defense, sharpen it, but also strengthen our other defenses so we can protect the people. They sent us here to do no less.

Mr. MCCAIN. Madam President, less than 2 weeks ago America marked the historic demise of the ABM Treaty. We did so in accordance with the treaty's terms, and with the consent of Russia, acknowledging that the strategic rivalry that dominated our relationship for three decades is a thing of the past, in word and in deed. I find it remarkable that removal of the legal and diplomatic constraints formerly placed on the development of America's missile defenses has been replaced by political constraints imposed by members of the Armed Services Committee.

As my colleagues know, the committee bill slashed the President's budget request for missile defense programs by $812 million. I appreciate that missile defense was a controversial issue when it was viewed by some as a threat to United States-Russia relations. These critics argued that the strategic stability we enjoyed from the cold war-era ''balance of terror'' would be put at grave risk by President Bush's support for missile defense development unconstrained by treaty limitations.

These critics were wrong. I did not then agree with them, but I understood their position. Today, however, we live in a post-ABM Treaty world, forged with the cooperation and explicit consent of the Russian Government.

No longer does this arms control agreement regulate our development of anti-missile systems. No longer does America's diplomatic relationship with Russia require us to pay allegiance to an arms control relic of an adversarial past. The President has consistently stated that the development of effective missile defenses is a priority of his administration, and a requirement in an age of proliferation. Most Americans support the construction of missile defenses, especially if it is done in a way that doesn't violate our treaty commitments. Rather than alienate our friends overseas, America's missile defense development, some of which will be coordinated with the Russians and our allies, will one day help protect allies in Europe and Asia from missile assault. If properly managed, our international alliances will be strengthened, not weakened, by these systems. I believe they will enhance, not undermine, strategic stability.

It is troubling that the committee bill would deny the administration the resources and flexibility to aggressively pursue a range of missile defense programs, at a time when diplomatic and treaty constraints on that development no longer restrict our freedom of action. One motivation of missile defense critics is their belief that effective missile defenses are no more than a Reagan-era fantasy, a political project that disregards daunting technological obstacles to achievement. But by slashing nearly a billion dollars from missile defense development in the coming fiscal year alone, critics create a self-fulfilling prophecy. By definition, their denial of requested resources makes it nearly impossible for the administration to meet its objective to deploy missile defenses as soon as possible. I would remind my colleagues that only 3 years ago, 97 United States Senators voted to deploy ''as soon as technologically possible an effective National Missile Defense System capable of defending the territory of the United States against limited ballistic missile attack.''

Expert studies show that political and funding constraints have in fact impeded progress on developing and deploying missile defenses. Of the many missile defense programs, one of the most cost-effective and, if properly executed, most readily deployable would be a sea-based program using the Navy's existing Aegis fleet air defense assets. If accorded the proper priority and resources, populated areas along America's coasts, forward-deployed U.S. forces, and U.S. allies could begin to come under a limited missile defense umbrella before the end of the President's first term. Indeed, had the advice of many defense experts been followed since 1995, when a blue-ribbon commission first called for withdrawal from the ABM Treaty and pursuit of Aegis-evolved missile defenses, such protection would likely have been put into place before now.

We are a nation at war. The administration is seriously contemplating a military campaign against Iraq, a nation armed with short-range ballistic missiles that took their toll on American troops and Israeli civilians during the Persian Gulf war. Saddam Hussein is also known to be pursuing more sophisticated missile systems. In any military campaign, our forces and our allies would be at risk from Iraqi warheads containing biological or chemical agents. Iran is pursuing an ICBM program and could test it within 3 years, according to our intelligence community's consensus estimate. Iran is also aggressively pursuing a nuclear capability. Our intelligence community assesses that North Korea today possesses the capability to hit the United States with a nuclear weapon-sized payload. Many experts believe the North Koreans already possess enough weapons-grade plutonium for several nuclear weapons.

America faces the risk of strategic blackmail from nations such as these whose possession of sophisticated missile technology puts them in a position to restrict our flexibility to deploy military forces where and when they are needed. Much of the missile defense debate has focused on defense of the U.S. homeland, and this is important. But development of effective missile defenses is critical not only to protect America, but to preserve our military options overseas, by allowing us to meet threats to our interests around the world. Effective missile defenses will allow American forces the flexibility to operate in regions where the presence of a dangerous regime armed with ballistic missiles would otherwise unacceptably constrain American military operations.

America's defenselessness to missile attack, and the vulnerability of our overseas forces and our allies to rogue regimes with advanced missile capabilities, are the Achilles' heel of American foreign policy. Preserving our ability to deploy military forces across the globe requires us to protect against threats of missile attack that, left unmet, could one day cause us to acquiesce to acts of aggression overseas in order not to expose ourselves to attack. Missile defenses will reduce the possibility of strategic blackmail by rogue regimes.

The threats are real. The diplomatic foundation has been laid. The potential of missile defense technology is clear. The implications of rendering America defenseless as a strategic choice are morally troubling. The case for missile defense is compelling. The threat of terrorism is grave, but the rise of this clear and present danger does not diminish the menace that rogue regimes that cavort with terror and aggressively pursue weapons of mass destruction pose to America. I urge my colleagues to support the Warner amendment to restore the President's requested funding for missile defense programs.

Mr. SMITH of New Hampshire. Madam President, I rise in strong support of the amendment offered by my friend and colleague, Senator WARNER, to restore funding for missile defense.

The cuts made during markup, while amounting to ''only'' 10 to 11 percent of the overall missile defense budget, are targeted to decapitate the program and destine it to failure. President Bush will likely veto the Defense authorization bill if we do not restore funding to missile defense.

I have long been a strong proponent of missile defense. We must take the appropriate steps to protect our homeland against all threats. An effective missile defense is a key element in homeland security. There are those who discount the threat. However, a recent national intelligence estimate (NIE) warned that a rogue nation, other than China or Russia, will be capable of a ballistic missile attack against the United Stats before 2015.

I believe we will face the threat in the near term, well before 2015. The threat is real, and it is now, not in the

distant future. If this body turns a blind eye to this ominous threat, History will condemn us for our lack of action, and question why we sat idle while the threat grew. It is important to note that the public overwhelmingly supports missile defense. However, the vast majority of Americans do not realize that our Nation currently can do nothing to stop a ballistic missile attack against the United States. In fact, a majority of Americans expressed surprise, disbelief, and anger, when told that the United States has no defense against ballistic missiles.

We need to get serious about developing and fielding a missile defense system. We can't wait for another September 11-like event to spur us into action. Complacency is our enemy. For the sake of our children and our grandchildren, I hope that reason will prevail and that we will vote to pass this amendment.

I commend President Bush for withdrawing from the ABM Treaty. The ABM Treaty was a cold war relic that deserved to be discarded. I also applaud the Bush administration for its new approach toward missile defense. Approaching missile defense as an integrated ''system of systems,'' with layered defense in phases—boost, midcourse, and terminal—is the right thing to do. Unfortunately, the cuts during markup targeted the critically important systems engineering and command and control elements of missile defense.

In effect, the cuts removed the ''system of systems'' architecture that is important to the new approach to missile defense. The national intelligence estimate was clear. North Korea, Iraq, Iran, and others actively seeking to acquire weapons of mass destruction and longer range ballistic missiles. China already has ICBMs capable of hitting the United States and has threatened to use them if the United States interceded in a conflict with Taiwan. Effective missile defense is one of the most complex technical problems to face our Nation, and one that requires innovative solutions.

I applaud the new approach for the development and rapid fielding of missile defense. It is the right approach given the unique challenges of the program and the looming threat. There has been much unwarranted confusion over the non-traditional approach to defining requirements for missile defense, and the review and oversight process. Some allege that the Missile Defense Agency (MDA) has been given cart blanche to spend taxpayer money on outlandish technologies with no oversight.

These allegations are totally unfounded, and are largely intended by ideological opponents of missile defense to alarm and confuse the public. Developing a missile defense system is, as Pete Aldridge, the Deputy Secretary of Defense for Acquisition, Technology, and Logistics said, like operating in ''uncharted waters.''

In order to define the requirements for the system in the face of maturing technologies and the unpredictable future threat, the Missile Defense Agency will use an evolutionary or ''spiral'' development approach. In most complex programs like missile defense, it is extremely difficult in the early stages of development to define in sufficient detail what the fielded system will look like, how it will perform, and what its functional characteristics will be. These items are normally described in operational requirements documents, or ORDs. However, far too often, the services, with the best of intentions, write the operational requirements documents (ORDs) too early in development with their ''best guess'' on what the parameters should be, and then spend huge amounts of money trying to drive programs to meet those requirements.

In missile defense, these final requirements at this point are impossible to determine. Using ''spiral'' development. In other words, developing the system in increments and fielding capabilities as soon as they are ready will allow the Department of Defense to field an effective missile defense as rapidly as possible. Some argue that this program will not receive the proper amount of oversight both within the Department of Defense and from the Congress. The truth is that this program will have more oversight than any other program in the DOD, and I am confident that the Armed Services Committee will continue its diligent oversight role as well.

I would like to say a few words about the level of DOD oversight on missile defense so the record is clear. A group of senior Defense officials, including Deputy Secretary Paul Wolfowitz, Pete Aldridge, and the service Secretaries will act as a ''board of directors'' for missile defense and will review the missile defense program on a periodic basis. In fact, this group has already reviewed the program multiple times in the last few months and will continue to do so in the future. Keep in mind that the average DOD acquisition program does not have this level of oversight.

In addition, a second oversight group, the Missile Defense Support Group, also has been created to review missile defense. This group resembles the Defense Acquisition Board, which on traditional acquisition programs only reviews the program at key milestones. However, the Missile Defense Support Group will review the program on a quarterly basis. Furthermore, the oversight panel is supported by a staff that will conduct day-to-day oversight to ensure that the program remains on track. Of course, the Congress will continue its oversight role as before. Nothing has changed in that regard.

The concerns about a lack of oversight are unfounded. I would like to conclude by once again applauding the Bush administration for revamping the Missile Defense Program into one that has the highest probability for success. Let's get on with the task. Our Nation's security and the safety of millions of Americans depend on us.

I would also like to thank Senator WARNER for his leadership on this issue, and would encourage all my colleagues to vote for this amendment.

Mr. BAUCUS. Madam President, I rise today to briefly comment on my vote against Senator KENNEDY's amendment to the Defense authorization bill.

This amendment would have resulted in a fundamental change in the way the Department of Defense is structured. It mandated a new policy for every new, modified, or renewed contract for all noninherently governmental services within the Department of Defense. The consequences of such a change at this point in time would not, in my estimation, serve the best interests of my State or of this Nation.

Small businesses are an integral part of Montana's economy. Small businesses meet the diverse, everyday needs of Montana's citizens; many Montana small businesses also successfully compete for federal contracts. The provisions of this amendment would have priced many small businesses out of Federal contract competitions. In light of Montana's struggling economy, I could not vote for an amendment that would have increased small business costs while creating an insurmountable hurdle that need not exist.

I am also keenly aware of the human capital crunch that the Federal Government currently faces. The Department of Defense faces particular challenges as they seek to maintain readiness while adjusting to post-cold war and post-September 11 realities. This amendment would have resulted in increased personnel costs for the Department of Defense, but, more importantly, it would have delayed contract awards and adversely affected mission effectiveness. This is not in the best interest of our nation's security or economic needs.

I am a strong supporter of labor standards in both the private and public sectors. Upholding labor standards for all Montanans is a top priority for me. I also firmly believe that the Federal Government needs to secure the best services, whether public or private, for the taxpayer dollars it expends. In examining this amendment, I felt that it did not uphold these standards. Instead, the amendment held the potential to harm Montana's small business viability and exacerbate the public-sector federal human capital shortage.

MEDICAL TECHNOLOGY AND RESEARCH

Ms. COLLINS. Madam. President, I rise today to discuss medical research aimed at preserving blood products, human organs, and other wound-repairing tissues. As the chairman may recall, last year I discussed with Chairman LEVIN the fact that this research could dramatically impact our ability

to overcome current medical challenges involved in blood and tissue preservation.

Recent U.S. military actions have resulted in stationing troops in harsh climates and conditions, such as those experience in Afghanistan. Current locations and missions require new capabilities in combat casualty care, and these capabilities would include stable blood products, organs, and wound repairing tissues that will enhance human survivability under conditions of trauma, shock, anoxia, and other extreme conditions, including extreme environment. The Department of Defense needs to develop tissues with a long shelf life to support combat casualty care. Research in this area could develop stress-tolerant biosystems or tissues that selectively control critical metabolic processes by exploiting an enhanced understanding of differential gene expression in bio-organisms and systems exposed to extreme environments.

Ms. LANDRIEU. The Senator from Maine is quite correct in her observation and assessment that medical treatment, and specifically combat casualty care, particularly in a time of war, should not be overlooked. Further, the Department of Defense must consider all initiatives that could provide our military physicians and medical staff the tools necessary to save the lives of men and women whose service to our Nation puts them at risk of severe injury.

Ms. COLLINS. I am hopeful that as our bill moves through floor consideration and conference with the House, we can work to ensure that this type of research is adequately funded within the Department of Defense.

There are many aspects to consider in taking care of our soldiers, sailors, airmen and marines who are sent into harm's way. In times like these, preserving the well-being of our men and men in uniform should be given the investment necessary to see that research like this gets to the field.

Ms. LANDRIEU. I thank the distinguished Senator from Maine for highlighting the critical nature of this research. I recognize her interest in this particular area and that this research clearly has potential for saving lives, both military and civilian. I look forward to working with her on this issue as the Fiscal Year 2003 National Defense Authorization bill moves forward.

Ms. COLLINS. I thank the distinguished chairman for her commitment to support investments in the well-being of a most precious national asset—our men and women in uniform. And I look forward to working with her on this important issue. The support of the chairman of the Emerging Threats and Capabilities Subcommittee will be critical, and welcomed, to see that leading edge medical research is not only explored, but deployed in the days ahead.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. REID. It is my understanding the Senate is now in morning business; is that right?

The PRESIDING OFFICER. That is correct.

## SUPREME COURT DECISION IN ATKINS V. VIRGINIA

Mr. BIDEN. Madam President, last week the Supreme Court ruled, in a case called Atkins v. Virginia, that the execution of mentally retarded persons violates the eighth amendment's prohibition of cruel and unusual punishment. The Court thereby reversed its 1989 holding in Penry v. Lynaugh, which it decided at a time when only two States with death penalty laws forbade the execution of the mentally retarded. In Atkins, the Court noted that in the 13 years following Penry, 16 additional States have enacted laws banning such executions. In addition, 12 States do not have the death penalty at all, meaning that a total of 30 States do not permit the execution of the mentally retarded. Therefore, the Court concluded that a ''national consensus'' has emerged against the execution of the mentally retarded. Because the Court interprets the eighth amendment in accordance with ''evolving standards of decency that mark the progress of a maturing society,'' the Court concluded that the emergence of this national consensus rendered such executions unconstitutional.

I applaud the Supreme Court's decision. And I do so not from the perspective of one who opposes the death penalty in all its applications. Rather, I am a supporter of the death penalty. I believe that, when used appropriately, it is an effective crime-fighting tool and a deterrent. Indeed, I am the author of two major Federal crime laws that extended the availability of the death penalty. I authored the Anti-Drug Abuse Act of 1988, which extended the death penalty to drug kingpins. And I authored the Violent Crime Control and Law Enforcement Act of 1994, which extended the death penalty to roughly 60 crimes, including—just to name a few—terrorist homicides, murder of Federal law enforcement officers, large-scale drug trafficking, and sexual abuse resulting in death.

But I believe that when we apply this ultimate sanction—which is, of course, irrevocable—we must do so consistent with the values that we stand for as a nation and as a civilized people. We must be as reasonable, as fair, and as judicious as we possibly can be. And we must ensure that we reserve the death penalty only for monstrous people who have committed monstrous acts. In short, we must apply the death penalty in a way that is worthy of us as Americans.

That is why I have led the fight to make sure that the Federal death penalty—which I strongly support—does not apply to the mentally retarded. Just as we would not execute a 12-year-old who commits a crime, even though that 12-year-old knows the difference between right and wrong, so we should not execute a mentally retarded person. To be mentally retarded is to be deprived of the ability to comport oneself in a normal way, not because of anything that one did, but because of an accident of birth. We all know families into which children are born who do not have a high enough intelligence quotient to justly and fairly measure their actions against every other person in society. I cannot imagine strapping in a chair someone with an I.Q. of less than 70, with the mental capacity of a 12-year-old—at most—and telling him that he must die for his crimes.

Let me be clear: I do not believe that a mentally retarded criminal is blameless. Far from it. A mentally retarded person, like a child, may well know the difference between right and wrong, and may be able to control his actions. Therefore, I must be clear about one further point. This is not about choosing between executing mentally retarded criminals or letting them roam the streets. That is a false choice. Under the Federal laws that I have authored, as well as under State statutes, we provide for every possible penalty short of death for the mentally retarded, including life imprisonment without possibility of parole.

That was true last week, and it remains true today. The Supreme Court decision does not alter that fact one bit. It remains within our ability—and it remains our duty—to ensure that dangerous mentally retarded criminals are kept far away from law-abiding citizens. We have a host of penalties available to us to ensure that we are able to do so. And we have been doing so effectively. Since the 1989 Penry decision, only five States have resorted to executing mentally retarded persons. The remaining States, as well as the Federal Government, have effectively confined and deterred mentally retarded criminals by means of incarceration.

Some people have argued that we must allow executions of the mentally retarded because it is often extremely difficult to define and determine mental retardation. I disagree. That has not been the experience of the States in recent years. More importantly, whether something is difficult to do has no bearing on whether it is the right thing to do. Sparing the lives of mentally retarded criminals is manifestly the right thing to do, regardless of whether it is difficult on the margins. We ask judges and juries to make

difficult decisions every day of the year, because a system of justice based upon avoiding difficult decisions would provide no justice at all.

In 1990, I led the fight against an amendment that would have changed the Federal death penalty statute to permit the execution of the mentally retarded. During the floor debate, I implored my colleagues, ''Let us show that our support for the death penalty is bonded by humanity.'' I asked my colleagues to remember that to be mentally retarded is to be denied the ability to develop the full human faculties that the rest of us take for granted. ''We do not execute children,'' I noted. ''Let us not execute people who never get beyond that stage in their life through absolutely no fault of their own.''

I am proud that a majority of this body agreed with me and rejected the amendment. And I am proud that by our action, we, in our own small way, helped galvanize our brothers and sisters in State legislatures to such an extent that, 12 years later, the Supreme Court can state that a national consensus has emerged against executing the mentally retarded. As a supporter of the death penalty, I know that this ultimate sanction is justifiable only if it is administered in a way that comports with American values. Last week, the Supreme Court agreed, and we are a stronger nation for it.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 17, 2001 in Evanston, IL. Mustapha Zemkour, a Chicago taxi driver and student, was injured when two men—including a Cook County corrections officer—chased him on motorcycles, then hit him in the face and yelled, ''This is what you get, you mass murderer!'' The perpetrators ''apparently assumed he was of Arab descent'' police said. The two men were charged with aggravated battery and a hate crime in the attack.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## AWARD OF THE DISTINGUISHED FLYING CROSS TO FORMER SENATOR WILLIAM D. HATHAWAY

Ms. SNOWE. Madam President, I rise to salute a soldier, public servant, and son of Maine who Monday afternoon was honored for his heroic service 58 years ago today. This recognition is all the more special for me, for our Nation also honors a colleague, former Senator William D. Hathaway of Maine.

On Monday, the United States Air Force recognized a distinguished World War II veteran for his heroic service 58 years ago. As a young airman serving with the Fifteenth Air Force high over the Ploesti oil fields in Romania, Second Lieutenant Bill Hathaway and his crew mates showed their courage, and in the process helped turn the tide of the Battle of Ploesti toward the Allied cause.

As Major General N.F. Twining, Commanding General of the Fifteenth Air Force, wrote in a letter to Lieutenant Hathaway after the battle, ''Your return marked the culmination of an outstanding campaign in the annals of American military history. The German war machine's disintegration on all fronts is being caused, to a large extent, by their lack of oil oil that you took away from them.''

On the morning of June 24, 1944, while stationed near San Pancrazio, Italy, Lieutenant Hathaway and other members of the 514th Flying Squadron were deployed to Romania, where a battle for control of the Ploesti oil fields was raging with the Germans. Early that morning, Lieutenant Hathaway's squadron took off from their air station, located near the heel of Italy's boot, and crossed the Adriatic toward Bucharest, and the nearby oil fields. Future Senator Bill Hathaway was situated as a navigator as his B–17 aircraft droned toward its target.

By 10:00 a.m., the squadron had arrived over Ploesti, but they encountered heavy enemy fire from the time they crossed the Rhine River nearby. As many as 200 German fighters challenged the American flyers, who encountered heavy flak. Upon arriving over the oil fields, though, the American mission was thwarted by a heavy German smoke screen that shielded the oil fields and other targets on the ground from sight.

Undaunted, Lieutenant Hathaway and the crew plotted another alternative, as the squadron's commanding officer ordered the crew to turn around, circle back, and try the bombing run again. Dodging nearby anti-aircraft fire and enemy fighters, the team proceeded over the oil fields again, and this time they found their target. The 514th dropped its bombs on target and headed away from Ploesti.

But as with so many battles, the 514th's celebration was fleeting. Soon after dropping its bombs, Lieutenant Hathaway's aircraft was hit by flak from the dogfight over the oilfields. One of the B–17's engines was disabled, and three crew were injured: Lieutenant Hathaway was hit in the shoulder, nose gunner George Deputy in the head; and bombardier Richard McDowell in the leg. Demonstrating the tenacity and courage that has characterized Bill Hathaway throughout his career, Lieutenant Hathaway gave his pilot a course to Turkey, and, while medics dressed the wounds of the other two airmen, he assumed Deputy's position in the nose turret, and fired at the German fighters that continued to buzz his aircraft.

Despite his valiant effort, the plane was crippled and continued to lose altitude. After German fighters took out a second engine, the pilot gave the order to bail out. Lieutenant Hathaway, and other members of the crew, donned their parachutes and jumped. Two crew, copilot David Kistler and waist gunner Ben Matthews, were killed when their parachutes failed to open. Lieutenant Hathaway and two others were taken prisoner upon landing, later being reunited with the remainder of the B–17 crew. Ultimately, these American heroes were imprisoned in Bucharest by German forces, where they remained until Romania was liberated by Russian allied soldiers in August, 1944.

For his extraordinary heroism and bravery, the Air Force this week honored Senator Hathaway, and fellow crew members Herman Hucke and Richard McDowell, with the Distinguished Flying Cross. The ceremony at the Officer's Club at Bolling Air Force Base Monday afternoon provided yet another distinguished recognition for Senator Bill Hathaway, who represented Maine for 13 years in Congress. Since leaving Congress, he has remained active and engaged in public service, including time as a commissioner and chairman of the Federal Maritime Commission.

In reviewing the courageous actions of Lieutenant Hathaway and his crew today, I am reminded of the words of President John F. Kennedy, who said, ''In the long history of the world, only a few generations have been granted the role of defending freedom in its hour of maximum danger.'' Well, how fortunate we are that those few generations were blessed with men like Bill Hathaway, Herman Hucke, Richard McDowell, and other members of the crew, seemingly ordinary Americans from small towns and big cities all across our Nation who performed extraordinary deeds in service to their country.

So I am proud to join with the Air Force, the President, and the people of Maine and a grateful Nation in honoring Senator Hathaway, and his fellow crew, for their outstanding service. This recognition is well-deserved and, certainly, long overdue.

## THE ANNOUNCEMENT OF GOVERNOR JESSE VENTURA NOT TO SEEK A SECOND TERM IN OFFICE

Mr. MCCAIN. Mr. President, I rise to talk about one of most colorful, to put

it mildly, elected officials in contemporary American politics. Recently, Minnesota Governor Jesse Ventura announced he would not seek a second term in the Land of 10,000 Lakes. Governor Ventura took an unusual career path to arrive at his current position. After high school, Jesse Ventura volunteered for one of our Nation's toughest military assignments, the SEALs. He served 4 years in the Navy before eventually taking center stage in the wrestling ring and then as mayor of Brooklyn Park, MN for five years. Jesse continued his unconventional ways by challenging the political system and, against all odds, winning his gubernatorial race in 1998 against two well-established opponents. Now, he is exiting the political arena. As I look back, there were many comments made by the Governor that I disagreed with, as I did with some of his public policies. But Jesse Ventura's run 4 years ago was about more than who would run the State of Minnesota. As my hero, Theodore Roosevelt, said nearly a century ago, ''It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena.''

## ADDITIONAL STATEMENTS

### DEFEAT THE HEAT

• Mr. FRIST. Madam President, as a Member of the U.S. Senate and as a physician, I would like to take the opportunity to alert my colleagues to the Defeat the Heat campaign for America's children.

Defeat the Heat is a new public safety campaign created by the National SAFE KIDS Campaign, the National Athletic Trainers' Association (NATA) and Gatorade. The campaign's purpose is to educate parents and kids about the dangers and the prevention of dehydration and heat illness. The goal is to teach parents to think of fluids as essential equipment for playing sports, just as they would regard a helmet or shin guards to be protective gear.

A survey commissioned by the National SAFE KIDS Campaign reveals that more than three in four parents of active 8–14 year olds do not know how much fluid their kids need to replace what is lost through perspiration, and many do not know how to prevent dehydration. A child can lose up to a quart of sweat during a 2-hour sports game.

There are several physiological factors that make children more vulnerable to heat-related illness than adults. Children absorb more heat from the environment because they have a greater surface-area to body-mass ration than adults—the smaller the child, the faster the heat is absorbed. Also, children are not able to dissipate as much heat as adults through perspiration. They produce more metabolic heat during physical activity and do not have the same physiological urge to drink enough fluids to replenish sweat losses during prolonged exercise.

How can we help America's children defeat the heat? Drinking enough of the right fluids is the best defense against heat illness because dehydration is one of the first steps to more serious heat-related conditions like heat stroke and heat exhaustion. Children should be sure to drink before, during, and after activity and never wait until they feel thirsty to drink. If children feel thirsty, their body is already dehydrated.

It is with great pleasure that I join my fellow Tennessean, Coach Pat Summitt, six-time national champion NCAA Women's Basketball coach at the University of Tennessee, the National SAFE KIDS Campaign, the National Athletic Trainers' Association (NATA), Gatorade, and others in this admirable and worthwhile cause to educate parents about these health risks. As a physician, it is my hope that parents become active in this program to help their children defeat the heat.•

### TRIBUTE TO COLONEL JOHN K. ELLSWORTH

• Mr. BOND. Mr. President, I rise today to pay tribute to an exceptional officer in the United States Air Force Reserve, an individual that a great many of us have come to know personally over the past few years, Colonel John K. Ellsworth. Colonel Ellsworth, who serves as Deputy Chief of the Air Force Senate Liaison Office, and was recently promoted to Colonel, will be leaving his position to attend the prestigious Army War College at Carlisle Barracks, PA. During his assignment here on Capitol Hill, Colonel Ellsworth personified the Air Force core values of integrity, service, and excellence in the many missions the Air Force performs in support of our national security. Many Members and staff enjoyed the opportunity to work with him on a variety of Air Force issues and traveled with him on a multitude of fact-finding trips around the world. To a person, they all recognize and deeply appreciate his character, dedication to duty, and professionalism. Today it is my privilege to recognize some of Colonel Ellsworth's many accomplishments, and to commend the superb service he provided the Air Force, the Congress, and our Nation.

Colonel Ellsworth entered the Air Force through the Reserve Officers' Training Corps program at the Citadel, SC. He served in various operational support and staff assignments including duty as a maintenance officer for many of the Air Force's aircraft. Throughout his distinguished career, Colonel Ellsworth's exceptional leadership skills were always evident to both superiors and subordinates as he repeatedly proved himself in numerous select leadership and command positions.

During his current assignment of working with the Congress, Colonel Ellsworth provided a clear and credible voice for the Air Force while representing its many programs on Capitol Hill, consistently providing accurate, concise and timely information. His integrity, professionalism and expertise enabled him to develop and maintain an exceptional rapport between the Air Force and the Congress. The key to his success, I believe, was his deep understanding of Congressional processes and priorities, and his unflinching advocacy of programs essential to the Air Force and to our Nation.

I am very pleased that Colonel Ellsworth is about to begin the next phase of his career as a senior officer in our Air Force. I offer my sincere congratulations and best wishes to his as he heads for his next assignment where he will further his knowledge of national security strategy with other warriors of our armed forces.

On behalf of the Congress and our great Nation, I thank Colonel Ellsworth and his entire family for the commitment and sacrifice they have made throughout his career. I know I speak for all of my colleagues in expressing my heartfelt appreciation to Colonel Ellsworth for a job well done. He is certainly a credit to the Air Force and the United States. We wish our friend the best of luck in his new assignment.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT ON BOSNIA AND U.S. FORCES IN NATO-LED STABILIZATION FORCE (SFOR) FOR THE PERIOD MARCH 2001 TO DECEMBER 2001—PM 98

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

*To the Congress of the United States:*

As required by the Levin Amendment to the 1998 Supplemental Appropriations and Rescissions Act (section 7(b) of Public Law 105–174) and section 1203(a) of the Strom Thurmond National Defense Authorization Act for

FY 1999 (Public Law 105–261), I am providing a report prepared by my Administration on progress made toward achieving benchmarks for a sustainable peace process in Bosnia and Herzegovina.

This sixth report, which also includes supplemental reporting as required by section 1203(a) of Public Law 105–261, provides an updated assessment of progress on the benchmarks covering the period March 2001 to December 2001.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 25, 2002*.

## PERIODIC REPORT ON THE NATIONAL EMERGENCY CAUSED BY THE LAPSE OF THE EXPORT ADMINISTRATION ACT OF 1979 FOR AUGUST 19, 2001 TO FEBRUARY 19, 2002—PM 99

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 204(c) of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report prepared by my Administration, on the national emergency declared by Executive Order 13222 of August 17, 2001, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 25, 2002*.

## SECOND PROTOCOL TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY—PM 100

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

*To the Congress of the United States:*

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95–216, 42 U.S.C. 433(e)(1)), I transmit herewith the Second Protocol to the Agreement Between the United States of America and the Netherlands on Social Security (the ''Second Protocol''). The Second Protocol was signed at The Hague on August 30, 2001, and is intended to modify certain provisions of the original U.S.-Netherlands Agreement, signed December 9, 1987, as amended by the Protocol of December 7, 1989 (the ''U.S.-Netherlands Agreement'').

The U.S-Netherlands Agreement as amended by the Second Protocol is similar in objective to the social security agreements that are also in force with Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation and to help prevent the loss of benefits that can occur when workers divide their careers between two countries. The U.S.-Netherlands Agreement as amended by the Second Protocol contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Second Protocol with a paragraph-by-paragraph explanation of the provisions of the Second Protocol (Annex A). Also annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report on the effect of the Second Protocol on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Second Protocol (Annex B), and a composite text of the U.S.-Netherlands Agreement showing the changes that will be made as a result of the Second Protocol. The Department of State and the Social Security Administration have recommended the Second Protocol and related documents to me.

I commend the Second Protocol to the United States-Netherlands Social Security Agreement and related documents.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 25, 2002*.

## PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE 1979 IRANIAN EMERGENCY AND ASSETS BLOCKING FOR THE PERIOD OCTOBER 1, 2001 THROUGH MARCH 31, 2002—PM 101

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 25, 2002*.

## MESSAGE FROM THE HOUSE

At 12:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3971. An act to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

H.R. 3786. An act to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona.

H.R. 3858. An act to modify the boundaries of the New River Gorge National River, West Virginia.

H.R. 3937. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

H.J. Res. 95. A joint resolution providing for the designation of a Medal of Honor Flag and for presentation of that flag to recipients of the Medal of Honor.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 416. concurrent resolution congratulating the Navy League of the United States on the occasion of the centennial of the organization's founding.

The message further announced that pursuant to section 112 of the Clean Air Act (42 U.S.C. 7412), the Speaker appoints the following member on the part of the House of Representatives to the Board of Directors of the National Urban Air Toxics Research Center to fill the existing vacancy thereon: Dr. Arthur C. Vailas of Houston, Texas.

## MEASURES REFERRED

The following bills and joint resolution were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3786. An act to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona; to the Committee on Energy and Natural Resources.

H.R. 3858. An act to modify the boundaries of the New River Gorge National River, West Virginia; to the Committee on Energy and Natural Resources.

H.J. Res. 95. A joint resolution providing for the designation of a Medal of Honor Flag and for presentation of that flag to recipients of the Medal of Honor; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 416. Concurrent resolution congratulating the Navy League of the United States on the occasion of the centennial of the organization's founding; to the Committee on Armed Services.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 4931. An act to provide that the pension and individual retirement arrangement provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3971. An act to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7589. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Rehabilitation Engineering Research Centers'' received on June 24, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–7590. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, the List of States Rechartered by the Commission on Civil Rights; to the Committee on the Judiciary.

EC–7591. A communication from the Deputy Secretary of Commerce, transmitting, a draft of proposed legislation entitled ''United States Patent and Trademark Office Reauthorization Act, Fiscal Year 2003''; to the Committee on the Judiciary.

EC–7592. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7593. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7594. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Finland; to the Committee on Foreign Relations.

EC–7595. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7596. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7597. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7598. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7599. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7600. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7601. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7602. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–7603. A communication from the Attorney General, Department of Justice, transmitting, pursuant to law, the Attorney General's Semiannual Management Report and the Report of the Office of the Inspector General for the period October 1, 2001 to March 31, 2002; to the Committee on Governmental Affairs.

EC–7604. A communication from the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled ''The U.S. Office of Personnel Management in Retrospect: Achievements and Challenges After Two Decades''; to the Committee on Governmental Affairs.

EC–7605. A communication from the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled ''The Federal Merit Promotion Program: Process vs. Outcome''; to the Committee on Governmental Affairs.

EC–7606. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Mediation Rev. Proc.'' (Rev. Proc. 2002-44, 2002-26) received on June 20, 2002; to the Committee on Finance.

EC–7607. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Arbitration Extension Announcement'' (Ann. 2002-60, 2002-26) received on June 20, 2002; to the Committee on Finance.

EC–7608. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Disclosure of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities'' (RIN1545-BA56 ; TD9001) received on June 20, 2002; to the Committee on Finance.

EC–7609. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002-34 ; Application of Section 4261(b) to Charters'' (RR-166571-01) received on June 20, 2002; to the Committee on Finance.

EC–7610. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Conversion of a Money Purchase Plan to a Profit-Sharing Plan'' (Rev. Rul. 2002-42) received on June 20, 2002; to the Committee on Finance.

EC–7611. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Passenger Name Record Information Required for Passengers on Flights in Foreign Air Transportation To or From the United States'' (RIN1515-AD06) received on June 20, 2002; to the Committee on Finance.

EC–7612. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2002'' (Notice 2002-39) received on June 24, 2002; to the Committee on Finance.

EC–7613. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance Under Section 832—Deductibility of Premium Acquisition Expenses of Non-Life Insurance Companies'' (Rev. Proc. 2002-46) received on June 24, 2002; to the Committee on Finance.

EC–7614. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2002-2003 Subsistence Taking on Fish and Wildlife Regulations'' (RIN1018-AI06) received on June 18, 2002; to the Committee on Energy and Natural Resources.

EC–7615. A communication from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, a draft of proposed legislation to grant easements or rights-of-way for energy-related projects on the Outer Continental Shelf (OCS); to the Committee on Energy and Natural Resources.

EC–7616. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''General Technical Base Qualification Standard'' (DOE-STD-1146-2001) received on June 20, 2002; to the Committee on Energy and Natural Resources.

EC–7617. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Radiological Assessor Training'' (DOE-HDBK-1141-2001) received on June 20, 2002; to the Committee on Energy and Natural Resources.

EC–7618. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Human Factors/Ergonomics Handbook for the Design for Ease of Maintenance'' (DOE-HDBK-1140-2001) received on June 20, 2002; to the Committee on Energy and Natural Resources.

EC–7619. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Radiological Safety Training for Plutonium Facilities'' (DOE-HDBK-1145-2001) received on

June 20, 2002; to the Committee on Energy and Natural Resources.

EC–7620. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Hoisting and Rigging'' (DOE-STD-1090-2001) received on June 20, 2002; to the Committee on Energy and Natural Resources.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

S. 2530: A bill to amend the Inspector General Act of 1978 (5 U.S .C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers. (Rept. No. 107-176).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 281: A bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial. (Rept. No . 107-177).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1240: A bill to provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, and for other purposes. (Rept. No. 107-178).

By Mr. SARBANES, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2673: An original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SARBANES:

S. 2673. An original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. BROWNBACK (for himself and Mr. CONRAD):

S. 2674. A bill to improve access to health care medically underserved areas; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ALLEN):

S. 2675. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay watershed; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TORRICELLI (for himself and Mr. HATCH):

S. 2676. A bill to amend the Internal Revenue Code of 1986 to allow a 10-year foreign tax credit carryforward and to apply the look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 2677. A bill to improve consumer access to prescription drugs, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. CRAPO, Mr. HARKIN, Mr. WARNER, Mr. DASCHLE, Mr. CRAIG, Mr. BOND, Mr. GRAHAM, Mrs. CARNAHAN, Mr. REID, Mr. THOMAS, Mr. ENZI, and Mr. JOHNSON):

S. 2678. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. SMITH of Oregon):

S. 2679. A bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage, to provide for the establishment of health plan purchasing alliances, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 2680. A bill to direct the Secretary of the Interior to evaluate opportunities to enhance domestic oil and gas production through the exchange of nonproducing Federal oil and gas leases located in the Lewis and Clark National Forest, in the Flathead National Forest, and on Bureau of Land Management land in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S.J. Res. 38. A joint resolution providing for the designation of a Medal of Honor Flag and for presentation of that flag to recipients of the Medal of Honor; to the Committee on Armed Services.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 291. A resolution to authorize testimony, document production, and legal representation in United States v. Milton Thomas Black; considered and agreed to.

By Mr. TORRICELLI:

S. Con. Res. 123. A concurrent resolution expressing the sense of Congress that the future of Taiwan should be resolved peacefully, through a democratic mechanism, with the express consent of the people of Taiwan and free from outside threats, intimidation, or interference; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 543

At the request of Mr. DOMENICI, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 677

At the request of Mr. HATCH, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 839

At the request of Mrs. HUTCHISON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 912

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 912, a bill to amend title 38, United States Code, to increase burial benefits for veterans .

S. 913

At the request of Ms. SNOWE, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 918

At the request of Ms. SNOWE, the name of the Senator from New Jersey

(Mr. TORRICELLI) was added as a cosponsor of S. 918, a bill to provide more child support money to families leaving welfare, to simplify the rules governing the assignment and distribution of child support collected by States on behalf of children, to improve the collection of child support, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1022

At the request of Mr. WARNER, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1311

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 1311, a bill to amend the Immigration and Nationality Act to reaffirm the United States historic commitment to protecting refugees who are fleeing persecution or torture.

S. 1506

At the request of Mr. NELSON of Florida, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1506, a bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation .

S. 1549

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1549, a bill to provide for increasing the technically trained workforce in the United States.

S. 1991

At the request of Mr. HOLLINGS, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1991, to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 2039

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2121

At the request of Mr. BREAUX, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2121, a bill to amend section 313 of the Tariff Act of 1930 to simplify and clarify certain drawback provisions.

S. 2194

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2335

At the request of Mr. JOHNSON, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2335, a bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes.

S. 2425

At the request of Mr. BAYH, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2425, a bill to prohibit United States assistance and commercial arms exports to countries and entities supporting international terrorism.

S. 2435

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2435, a bill to amend title 9 of the United States Code to exclude all employment contracts from the arbitration provisions of chapter 1 of such title; and for other purposes.

S. 2447

At the request of Mr. DURBIN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2447, a bill to amend title XVIII of the Social Security Act to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 2448

At the request of Mr. HOLLINGS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2448, a bill to improve nationwide access to broadband services.

S. 2512

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2525

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2525, a bill to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. 2545

At the request of Mr. DOMENICI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2545, a bill to extend and improve United States programs on the proliferation of nuclear materials, and for other purposes.

S. 2562

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2572

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2572, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2647, a bill to require that activities carried out by the United States in Afghanistan relating to governance, reconstruction and development, and refugee relief and assistance will support the basic human rights of women and women's participation and leadership in these areas.

S. 2648

At the request of Mr. HUTCHINSON, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S. 2648, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

S. 2649

At the request of Mr. KENNEDY, the names of the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2649, a bill to provide assistance to combat the HIV/AIDS pandemic in developing foreign countries.

S. 2668

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2668, a bill to ensure the safety and security of passenger air transportation cargo and all-cargo air transportation.

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from Wyoming

(Mr. THOMAS) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as ''Put the Brakes on Fatalities Day.''

S. CON. RES. 119

At the request of Mr. BURNS, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. Con. Res. 119, a concurrent resolution honoring the United States Marines killed in action during World War II while participating in the 1942 raid on Makin Atoll in the Gilbert Islands and expressing the sense of Congress that a site in Arlington National Cemetery, near the Space Shuttle Challenger Memorial at the corner of Memorial and Farragut Drives, should be provided for a suitable monument to the Marine Raiders.

S. CON. RES. 121

At the request of Mr. HUTCHINSON, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. Con. Res. 121, a concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

AMENDMENT NO. 3936

At the request of Mr. NELSON of Florida, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of amendment No. 3936 intended to be proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWNBACK (for himself and Mr. CONRAD):

S. 2674. A bill to improve access to health care medically underserved areas; to the Committee on the Judiciary.

Mr. CONRAD. Mr. President, today I join Senator BROWNBACK in introducing important legislation aimed at ensuring that a piece of the puzzle regarding adequate physician services in underserved communities is preserved.

By all accounts, the Conrad State 20 J–1 Visa Waiver program has been a great success at bringing crucially-needed doctors to medically-underserved areas. It has served as a wonderful resource for my State and for other States across our Nation. The bill we are introducing today eliminates the program's sunset date, thereby making sure that this much-needed program remains available.

I created the Conrad State 20 program in 1994 to deal with the reality that many areas of the country, especially rural communities, have a very difficult time recruiting American doctors. These health facilities have had no other choice but to turn to foreign medical graduates to fill their needs. J–1 visa waivers allow foreign physicians to practice in medically-underserved communities after their J–1 status has expired without first returning to their home countries. These waivers allow foreign physicians to receive nonimmigrant, H–1B status, temporary worker in specialty occupation, for 3 years. In order to receive the waiver, the physician must agree to serve the medically-underserved community for the full three years. If he or she fails to fulfill that commitment, the physician is subject to immediate deportation.

Prior to the creation of my State 20 program, J–1 visa waiver exclusively involved finding an ''interested Federal agency'' to coordinate the request. This was found to be a long, cumbersome, and bureaucratic process. By allowing States to directly participate in the process of obtaining waivers, my program relieves some of the burdens on participating Federal agencies and allows decisions regarding a State's health care needs to be made at the State level by the people who know best.

I have shepherded the Conrad State 20 program from its creation in 1994 through a subsequent reauthorization and other improvements over the years. By now removing the program's sunset date, the bill that Senator BROWNBACK and I are introducing today will ensure that this important program remains a part of a State's tool belt in dealing with physician-shortages in medically-underserved areas.

Our bill also provides for a modest increase from 20 allowable Conrad State 20 visa waivers per State per year to 30. For some time, a number of States have been bumping up against the State 20 ceiling, and my hope is that this increase will help additional medically underserved communities throughout the country procure the physician services they need.

I urge my colleagues to support this legislation.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ALLEN):

S. 2675. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay watershed; to the Committee on Health, Education, Labor, and Pensions.

Mr. SARBANES. Mr. President, today I am introducing legislation to establish an environmental education program for elementary and secondary school students and teachers within the Chesapeake Bay watershed. This measure would provide grant assistance to elementary and secondary schools, school districts and not-for-profit environmental education organizations in the six-state watershed to support teacher training, curriculum development, classroom education and meaningful Bay or stream outdoor experiences. It would also enable the U.S. Department of Education to become an active partner in the Chesapeake Bay Program. Joining me as co-sponsors of this legislation are my colleagues Senators MIKULSKI, WARNER, and ALLEN.

There is a growing consensus that a major commitment to education, to promoting an ethic of responsible stewardship and citizenship among the nearly 16 million people who live in the watershed, is necessary if all of the other efforts to ''Save the Bay'' are to succeed. The ultimate responsibility for the protection and restoration of Chesapeake Bay is dependent upon the individual and collective actions of this and future generations. As population growth and development continue to place enormous pressures on the Chesapeake Bay region's natural resource base, we must learn how to minimize the impacts that we are having on the Bay. Our future depends upon our ability to use the Bay's resources in a sustainable manner. This is as much a civic responsibility as voting. Developing an environmentally literate citizenry that has the skills and knowledge to make well-informed choices and to exercise the rights and responsibilities as members of a community is clearly one of the best ways to raise generations who can be contributors to a healthy and enduring watershed. In my judgment, this can best be accomplished by expanding assistance for environmental education and training programs in the K–12 levels.

In addition to stewardship, there are other dimensions to expanding environmental education opportunities in the Chesapeake Bay region that are equally compelling. A number of recent studies have found that environmental education also enhances student achievement, critical thinking and basic life skills. A 1998 report by the State Education and Environment Roundtable, perhaps the most comprehensive study to date, documents how 40 schools in 12 States, including three schools in Maryland and four schools in Pennsylvania, achieved remarkable academic, attitudinal and behavioral results by using the environment as an integrating strategy for learning across all subject areas. According to the study, students performed better in science, social studies, math and reading. Classroom discipline problems declined and students demonstrated increased engagement and enthusiasm in learning in an environment-based context. Moreover, students' creative thinking, decision-making and interpersonal skills were enhanced by environment-based learning.

The report is replete with success stories, but I will just cite two examples from schools in the Chesapeake Bay watershed. According to the report, students in the 4th grade at Hollywood Elementary School in Maryland scored 27 percent higher on the Maryland State Performance and Assessment Program test than at other schools in their county and 43 percent higher than the State as a whole after the school implemented the environmental based education program. The study also found behavior improvements and reduced discipline problems for 6th graders participating in the STREAMS program at Huntingdon Area Middle School in Pennsylvania compared to students not involved in the program. I ask unanimous consent that excerpts from this study regarding these two schools be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the State Education and Environment Roundtable]

CLOSING THE ACHIEVEMENT GAP—USING THE ENVIRONMENT AS AN INTEGRATING CONTEXT FOR LEARNING

(By Gerald A. Lieberman and Linda L. Hoody)

HOLLYWOOD ELEMENTARY: A LIVING LABORATORY

Adults in Saint Mary's County, Maryland, a wedge of farmland bordering the Chesapeake Bay, had tried for 25 years to start a community recycling program; for some reason the idea just never caught on. But once the fifth graders at Hollywood Elementary School decided to solve the problem it did not take long for them to turn their campus into a neighborhood recycling center.

It was the children's enthusiasm more than anything that motivated parents and neighbors to join their efforts. Soon, Hollywood's hallways bulged with giant boxes of old newspapers and the school's parking lot became a regular Saturday-morning stop for residents eager to dump their cans and glass. Teachers helped, but students ran the show. Parents offered their vans, trucks, and even horse trailers to help haul the goods to the nearest recycling station in the next county. Eventually Saint Mary's County itself caught on, set up a few recycling transfer stations of its own and hired a recycling coordinator. But it all started at Hollywood.

''It was just as grass-roots as anything can get,'' remembers Betty Brady, the teacher who initiated the project. ''We were a very small school at the time, less than 300 students, and we became a little place where people rallied.''

Hollywood Elementary is not such a little place anymore. Enrollment is up to 600 now, housed in a spacious new facility designed to accommodate the real-world teaching that Brady and her colleagues practice. But the campus remains a rallying point for parents, educators, and other area residents dedicated to the task of maximizing individual learning through integrated, environment-based education.

During the past 15 years, aided by community volunteers and funded through a series of small grants from the Chesapeake Bay Trust, Hollywood's students have turned their 72-acre campus into a living lab—blazing a nature trail, creating a butterfly garden, planting a forest habitat for migrating birds, and transforming a drainage pond into a natural wetland. Each project capitalized on the children's innate attraction to the natural world while providing unique opportunities to combine traditional subject areas in a meaningful whole. The results? At Hollywood Elementary, education works.

''As teachers, we always look at what works with and for children, paying attention to what causes that learner engagement that's so crucial to learning that lasts,'' explained principal, Kathleen Glaser. ''We're very concerned about not just teaching something so that students can pass a test and then forget it a month later, but teaching something that will be part of their knowledge base, something they can work from to solve problems and enhance their lives.''

Glaser and her staff, as well as the parents and students of Hollywood Elementary, clearly believe the school's real-world emphasis produces that kind of learning. And recent empirical evidence confirms it. Since 1992, the state of Maryland has required a year-end performance assessment for all students in grades three, five, and eight. It is a demanding yardstick, build around a child's ability to perform integrated tasks, such as life-science experiments and writing research reports. But it is a perfect tool to measure the effects of integrated education on real-world problem-solving.

Following five years of steady progress, Hollywood's students turned in a bellwether performance in 1997. In contrast to a statewide average of 38 percent, 67 percent of Hollywood's third grades achieved satisfactory assessment scores. At the fifth-grade level, Hollywood hit Maryland's ideal 70th percentile, with 70 percent of students performing in the satisfactory zone, as contrasted to 46 percent statewide.

Glaser attributes her school's stellar performance in large part to her staff of hardworking and innovative teachers, including Betty Brady and Julie Tracy.

Tracy found Glaser's supportive leadership style reason enough to choose Hollywood over another job offer when she finished her master's certification program in 1990. ''I think it was probably the teachers and Mrs. Glaser's encouragement and her openness to suggestions,'' she said. ''The other school was not as open to innovative ideas.''

For instance, while partnering with a class in Costa Rica during a Smithsonian-sponsored study on migratory birds, Tracy's students learned that loss of habitat was causing a decrease in the birds' population. Their solution? Creating a habitat on the school grounds. Teaming up with other classes, they identified likely planting areas, including a stand of recently planted trees that still lacked native underbrush, and filled in the area with berry shrubs chosen from the birds' regular menu.

Tracy believes allowing that sort of student initiative is crucial to the learning. ''If you approach a project saying, 'we're going to go out and plant a tree,' then it's the teacher's project,'' she said. ''But if the students are engaged in real scientific inquiry, and they're the decision-makers directing the project, then it's authentic, and they're engaged in meaningful learning.''

With its integrated, environment-based curriculum now expanding, and recognition of its effectiveness spreading. Hollywood Elementary has become a living portrait of the mature EIC school.

Looking back, Hollywood's recycling program, begun in the late 1980s, constitutes an important benchmark in an evolutionary process that started in 1982 when Glaser became principal of the school. From her own experiences first as a classroom teacher and later as a resource teacher, Glaser brought a dual focus to her new position: to encourage individual learning and support innovative teaching.

''I think we communicated pretty early, after I became principal, that what was most important was the individual learner,'' Glaser said. ''I think it's also important for teachers to grow professionally, so when they found a program or a resource or a good working idea we began to try some of those out.''

As Brady and her fellow teachers continued to brainstorm and experiment, they made two discoveries. First, they found that students learned most effectively when previously disjointed subjects came together in an integrated curriculum. Second, they realized that the environment provided a perfect integrating context for learning.

Brady has a simple explanation for that: ''All things are connected.'' Tracy agrees. ''All the subject areas are right there,'' she said. ''You don't have to try to plug anything in; it all just fits in naturally when you use the environment.''

Add to that children's innate love of animals and curiosity about nature, and Hollywood had found a sure-fire recipe for effective education. ''We saw children really engaging with the real world in a way they weren't engaging with the textbooks,'' Glaser explained, ''and we saw the learning really lasting.'' ''They see the big picture,'' Tracy added. ''They see the goal.''

Encouraged by their early successes and Glaser's never-wavering support, Hollywood's teachers began to design more and more environment-based projects and to tighten the teamwork so crucial to integrated learning. In some instances, teachers paired up based on their differing preferences: a nature nut, unfazed by bugs and dirt, and a bookworm, more comfortable juggling papers and pencils.

''We have such a spirit here of being a community of learners and leaders that people welcome someone with a different strength,'' Glaser commented. ''I'd like to think that one of the things we do well is to blend the teaching strengths we have available, then nuture not only the students, but also support each other where we need it.''

Hollywood's distinctive approach to teaching caught the national limelight in 1996, when Julie Tracy's idea that second and third graders could turn a drainage pond into a natural habitat earned her a 1996 presidential award for excellence in teaching. In a project that combined biology, botany, ecology, math, and language arts, Tracy's students explored the types of aquatic plants and animals they could expect to thrive in the little pond, then drafted a planting plan, calculating depths and distances for optimal growth, and recruited parents and local college students to help with the work. Today, the former drainage basin is home to fish, birds, amphibians, and even a raccoon or two.

Not surprisingly, with Hollywood's thriving EIC emphasis drawing attention throughout Maryland and beyond, people are beginning to take notice. Glaser has been fielding frequent calls from other schools eager to duplicate Hollywood's success. She is eager to respond. ''They want to know more about the nature trail or the butterfly garden, how that sort of thing gets organized,'' Glaser said. ''I'm getting more interested in how to help other teachers integrate some of these ideas. How can we help people benefit from our years of experience?''

''I'm seeing lots of indicators that this kind of work is growing,'' Glaser said. ''Hopefully, we can be a place people can visit or know about, so they can learn more about how to do it.'' If American education is indeed headed toward a new paradigm of integrated, environment-based instruction,

Hollywood is already out front and eager to lead the way.

HUNTINGDON AREA MIDDLE SCHOOL: STREAMS OF KNOWLEDGE

The students at Huntingdon Area Middle School are making adults in their rural Pennsylvania community sit up and take notice. Their active engagement in their community is an outgrowth of an innovative, homegrown EIC program called STREAMS—a regional grand-prize winner of the National Middle School Association's Team-teaching Award.

STREAMS, which stands for Science Teams in Rural Environments for Aquatic Management Studies, is an interdisciplinary program that aims to increase students' awareness of and concern for their immediate environment and to engage them in the community at large. As its name suggests, the program focuses on water and emphasizes active learning and real-world issues.

Student enthusiasm for the program keeps building. Every year, Huntingdon students clamor to begin projects earlier and earlier. ''We used to start in January,'' said Fred Wilson, social studies teacher. ''Then it was in November and this year some kids were ready in September.'' The accelerated schedule means more work for Wilson and his colleagues. But there is a certain synergy created when students are so eager, he said. And that is what gives him the energy to keep up.

The genesis of the STREAMS program occurred eight years ago when the sixth-grade teaching team, including Wilson, began looking for a new theme to incorporate across their existing interdisciplinary curriculum. They decided a program tied to the water studies presented in Tim Julian's science class would be ideal because they could tie it into all the disciplines.

''We wanted to examine problems in our community—such as water quality, stormwater runoff and erosion—to make the subject more meaningful to our students,'' Wilson explained. It was a perfect choice. With four separate watersheds converging within two miles of the school, he pointed out, Huntingdon already had a phenomenal outdoor lab at its doorstep.

Wilson volunteered to develop the interdisciplinary program and contacted a number of organizations in his search for suitable learning projects. But, while he discovered lots of suggestions for activities, there was no program that could be ''plugged in'' to Huntingdon's existing curriculum. By 1991, the first year Wilson and his teammates taught the STREAMS unit, he had developed his own instructional segments dealing with storm-water runoff, erosion and sedimentation, water quality monitoring, household pollutants, and community involvement. At the same time, Julian expanded the portion of his science curriculum that dealt with water to include the study of local watersheds as well as water and wastewater treatment facilities.

Students response was overwhelming, so overwhelming that the following summer Wilson and his colleagues developed more STREAMS topics—wetlands, groundwater, acidity, and nutrient enrichment—and added more water quality studies plus two additional watersheds to monitor.

The team effort regularly crosses disciplinary lines, with each teacher contributing his or her expertise toward common projects. In science class, for instance, Julian teaches the students about the properties of water, purification processes, and wastewater treatment. Before they go out on a field trip to conduct tests, they also learn how to use the proper monitoring equipment. ''Our kids don't go out unless they are prepped,'' Wilson said. ''That's so they can succeed.''

Rose Taylor, Huntingdon's sixth-grade language arts teacher, reinforces the vocabulary students need to know in their studies and works with students on STREAMS-related writing assignments. Math teacher Mike Simpson helps the students learn to interpret statistics, construct charts and graphs, and use computer database programs to report their findings. He also incorporates the data they collect into problems he uses to teach important math concepts such as fractions and percentages. ''Rather than use cookbook problems,'' he said, ''we use real field data.''

Wilson's part of the curriculum emphasizes the consequences of land use—residential, agricultural, and mining—on the water supply, as well as various types of pollution and the function of wetlands. Wilson's students also learn about the effects of storm-water runoff, a significant problem in the Huntingdon vicinity because of over-development in what was once a wetland.

Everything comes together out in the field, where all the team members get their hands dirty. Their eagerness to dig right in can be traced in large measure to their lengthy history as a team. ''We've teamed together so long—15 years—that we can be frank and open,'' Wilson explained. Another secret of the STREAMS staff is a willingness to step outside the bounds of their own disciplines. ''You have to be willing,'' he said, ''to wear different hats.''

Indeed, STREAMS teachers seem entirely comfortable sharing their teaching responsibilities all around. All the team members, for example, teach reading. Tim Julian and Mike Simpson capitalize on the interrelationships between science and math; both, for instance, teach students to interpret charts and graphs. ''Science uses a lot of math—averaging, graphing, measuring speed,'' Julian pointed out. ''Sometimes we work together; sometimes we handle it separately.'' Julian also supports Rose Taylor's efforts in language arts by having students write reports on their field activities. ''I do correct their grammar,'' he said, ''but I don't lower their science grade for mistakes.''

The teachers are equally flexible about class time. ''I could go into school tomorrow and say that I need a block of time,'' Wilson said, ''and we'd revamp the schedule in a minute.'' STREAMS team members synchronize and evaluate their lesson plans and schedules in regular weekly meetings, but they can also meet daily during a common planning period.

Wilson conducts an annual formal assessment of what students learned in the program. In the 1994/95 school year, 97 percent of STREAMS students failed a pre-test with an average score of 38 percent. Two months after the program concluded, the students' average score, on an unannounced post-test, was 81 percent, with only a 2 percent failure rate. In the 1996/97 school year, Wilson conducted the post-test five months after they completed the initial STREAMS unit. Even after that lengthy interval, the students' averaged 71 percent on the test. Those results, Wilson point out, indicate that most students not only mastered the content, but also retained that knowledge months after completing the program.

When Wilson and his colleagues started the STREAMS program, no one dreamed how successful and far-reaching it would become. Beyond the creativity and effort of the Huntingdon team, Wilson said, another key reason for their success is partnering with various organizations in the community.

Parents are another valuable resource. Without them, Wilson said, he could not accommodate all the students who want to do independent work, often after school and on weekends. They help transport and chaperone students giving presentations to public groups, civic organizations, teacher conferences, and workshops, as well as those taking special field trips or traveling to the biotechnology lab at Penn State. Parents also help with tree-planting projects and water-quality monitoring.

The students, too, have tapped into the partnering concept. When they proposed creating a wetland near the school, for example, they raised $1,000 and then found partners to contribute the $3,000 needed to complete the project—proof that they have learned to leverage their dollars and attract broad-based support.

The community that spawned these savvy students and teachers is by some standards an unlikely one. Huntingdon, a town of 7,000, is located in south central Pennsylvania, an area that historically has reported the highest unemployment figures in the state. The average family income here is $20,000 annually. Only 9.4 percent of adults in the county have earned a post-secondary degree, compared to 18 percent statewide.

Wilson also noted a dichotomy in the region's attitudes toward education, with some residents very supportive and others indifferent. Consequently, it has been exciting for Huntingdon's teachers to watch a gradual shift in the public's attitude toward the students' endeavors. ''At first, they were taken rather lightly,'' Julian noted, ''but now the community is coming and asking them for help.''

Without a doubt, Wilson observed, the Huntingdon teachers' decision to use the environment as an umbrella for interdisciplinary study and hands-on instructional strategies has produced tremendous results. ''I think that our students are engaged in a meaningful learning experience that will help to empower them to be critical thinkers and become more independent learners,'' he said.

As principal Jill Adams sees it, programs like STREAMS and teachers like Wilson and his colleagues hold the key to reshaping the entire educational process. ''The future of education really depends on people like this,'' she said. ''We cannot continue to teach the way that we were taught.''

Mr. SARBANES. In the Chesapeake Bay region, the Governors of Maryland, Virginia, Pennsylvania and the Mayor of the District of Columbia have recognized the importance of engaging students in the protection of the Chesapeake Bay. The States have each enacted legislation to integrate environmental standards into the curriculum for particular grade levels. As signatories to the Chesapeake 2000 Agreement, they have also committed to ''provide a meaningful Bay or stream outdoor experience for every school student in the watershed before graduation from high school'' beginning with the class of 2005.

Likewise, several not-for-profit organizations including the Chesapeake Bay Foundation, and the Living Classrooms Foundation have spearheaded efforts to create long-term, cohesive education programs focused on the local environment. They have developed terrific partnerships with schools and are helping teachers develop and implement quality instruction, investigations and Bay or stream-side projects.

Unfortunately, all these efforts and programs are only reaching a very small percentage of the more than 3.3 million K–12 students in the watershed.

Classroom environmental instruction across grade levels is sporadic and inconsistent, at best, and relatively few students have had the opportunity to engage in meaningful outdoor experiences. Many of the school systems in the Bay watershed are only at the beginning stages in developing and implementing environmental education into their curriculum, let alone exposing them to outdoor watershed experiences. What's lacking is not the desire or will, but the resources and training to undertake more comprehensive environmental education programs.

In 1970, the Congress enacted the first Environmental Education act to authorize the then-U.S. Department of Health, Education, and Welfare to establish programs to support environmental education at the elementary and secondary levels and in communities. In its statement of findings and purposes, the Congress found ''that the deterioration of the quality of the Nation's environment and of its ecological balance is in part due to poor understanding by citizens of the Nation's environment and of the need for ecological balance; that presently there do not exist adequate resources for educating citizens in these areas, and that concerted efforts on educating citizens about environmental quality and ecological balance are therefore necessary.'' Grants for curriculum development, teacher training, and community demonstration projects were made available for several years under this Act, but the program expired and was not reauthorized.

In 1990, the Congress enacted the National Environmental Education Act to renew the federal role in environmental education. The Congress, once again found that ''current Federal efforts to inform and educate the public concerning the natural and built environment and environmental problems are not adequate.'' Today, 32 years after the first Environmental Education Act was first authorized, those findings are still true. Last year, nationwide funding for the National Environmental Education Act administered by EPA was only $7.3 million. That averages to a little more than $140,000 for each of the 50 States, a sum that is totally inadequate for schools to incorporate environmental education as part of the K–12 curriculum.

The legislation which I am introducing would authorize $6 million a year over the next three years in federal grant assistance to help close the resource and training gap for students in the elementary and secondary levels in the Chesapeake Bay watershed. It would require a 50 percent non-federal match, thus leveraging $12 million in assistance. The funding could be used to help design, demonstrate or disseminate environmental curricula and field practices, train teachers or other educational personnel, and support on-the-ground activities or Chesapeake Bay or stream outdoor educational experiences involving students and teachers, among other things. The program would complement a similar initiative that I sponsored last year within the National Oceanic and Atmospheric Administration which is providing $1.2 million to support environmental education in the Chesapeake watershed.

The Chesapeake Bay Program has pioneered many of the Nation's most innovative environmental protection and restoration initiatives. It has been a leader in establishing a large volunteer monitoring program; implementing pollution control programs such as the ban on phosphate detergents and voluntary nutrient reduction goals; and conducting an extensive habitat restoration program including the opening of hundreds of miles of prime spawning habitat to migratory fish. It is an ideal proving ground for demonstrating that strong and consistent support for enviornmetnal education, using the Chesapeake Bay and local environment as the primary instructional focus, will lead not only to a healthier, enduring watershed, but a more educated and informed citizenry, with a deeper understanding and appreciation for the environment, their community and their role in society as responsible citizens.

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By Mr. TORRICELLI (for himself and Mr. HATCH):

S. 2676. A bill to amend the Internal Revenue Code of 1986 to allow a 10-year foreign tax credit carryforward and to apply the look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation; to the Committee on Finance.

Mr. TORRICELLI. Mr. President, today, Senator HATCH and I are introducing legislation to modernize and simplify the foreign tax credit. The legislation contains two meritorious provisions that we hope Congress will enact this year, in that they are both long overdue.

The first provision addresses the problem of double taxation that results when foreign tax credits expire unused under current law. To enhance the international competitiveness of U.S. companies operating overseas, and to help avoid this unfair double taxation, our legislation simply extends the current 5-year foreign tax credit carryforward period for five additional years to a 10-year carryforward.

The second provision reforms current law, which unduly hinders U.S. companies in their efforts to penetrate foreign markets by imposing the so-called 10/50 foreign tax credit rule. Due to legal and political realities, many U.S. companies are forced to operate through corporate joint ventures in partnership with local businesses. The 10/50 rule imposes a foreign tax credit limitation for each of these corporate joint ventures where a U.S. company owns at least 10 percent but not more than a 50 percent interest in a foreign company, and thus increases the cost of doing business for U.S. firms competing abroad.

10/50 reform would restore parity in the tax treatment of joint-venture income to other income earned overseas by U.S. companies by applying ''look-through'' treatment. Without this change, U.S.-based companies engaged in joint ventures overseas will continue to be disadvantaged vis à vis foreign competitors. Congress attempted to rectify this problem in a large tax bill that was ultimately vetoed in 1999. The Clinton Treasury also recommended enactment of this crucial tax change in its FY 2000 budget package and similarly, the Joint Committee on Taxation endorsed this non-controversial provision in its 2001 Simplification Study.

As indicated earlier, these two changes are long overdue and we urge their expeditious enactment.

Mr. HATCH. Mr. President, I am pleased to join with my friend and colleague from New Jersey in introducing a bill to improve the tax treatment of U.S.-based multinational companies.

It is apparent that our international tax code is deeply flawed. The current wave of companies reincorporating in Bermuda, the foreign sales corporation debacle, and the trend of tax-motivated foreign takeovers all provide abundant evidence that Congress needs to act to make our international tax rules friendlier to American-based companies.

The bill we are introducing today is one that I consider to be a down-payment on the fundamental reform that our international tax system demands. The bill will reduce, but unfortunately will not eliminate, the double taxation of international income that occurs far too often. This double taxation is just one of several serious problems with our international tax rules.

The threat of double taxation, where an American corporation ends up paying corporate taxes to both the United States and to a foreign country on the same income, discourages U.S. firms from investing overseas. And since U.S. multinationals provide millions of America's best-paying domestic jobs, anything that discourages overseas direct investment ends up hurting the take-home pay of our nation's workers.

Our bill has two provisions. The first would reform the carryforward treatment of foreign tax credits. The Internal Revenue Code was originally designed to make sure that U.S. corporations investing overseas are not subject to double taxation by a foreign nation and the U.S. on the same income. It does this through the availability of a foreign tax credit. If this system worked well, then American businesses would seldom or ever face this kind of double taxation.

However, the system most emphatically does not work well. For example, American businesses are only allowed to use these foreign tax credits when their U.S. operations are profitable. As a result, when the U.S. side of the business is doing badly, firms are unable to immediately use the foreign tax credits. While the current tax law allows

businesses to carry excess foreign tax credits forward for up to 5 years, that timetable is unrealistic. An expanding business, with high domestic expansion costs and low domestic profits, can easily go through 5 years of losses, and never get a chance to use those tax credits. Once the 5-year period has expired, the credits are gone forever, and the result is double taxation, the threat of which discourages firms from taking on otherwise profitable overseas investment projects.

If we want American businesses to take the long view, a 5-year carryforward just is not long enough. The legislation Senator TORRICELLI and I are introducing today will extend that horizon to 10 years. If enacted, it would give U.S. firms a much better search throughout the world for profitable investment projects. And again, profits earned by U.S. companies throughout the world generally translates into more and better-paying jobs for Americans.

Our second proposal would eliminate our tax code's inhospitable treatment of international joint ventures. In many developing countries with rules and restrictions on foreign ownership, joint ventures are the only way to get things done. Our current-law tax treatment of these joint ventures, known as 10/50 companies because between 10 and 50 percent of the joint venture is owned by the U.S. company—is indefensible.

Ordinarily, our tax code adds together tax attributes from different divisions of the same firm. For example, if one division of a company loses a hundred dollars and another division earns a hundred in profits, we offset the gain and the loss and assess no tax liability.

Unfortunately, when it comes to these 10/50 companies, the tax law applies a separate foreign tax credit limitation to each venture. This increases the cost of doing business for the U.S. firms competing abroad because it makes it harder for firms to use their foreign tax credits and also adds a great deal of complexity. The result? Double taxation once again. And once again, our tax code discourages U.S. firms from jumping on profitable investment opportunities, because of the very real threat of double taxation.

When American businesses are considered overseas investment opportunities, we do not want that decision to turn on the arcane details of U.S. tax law—we want a code that is fairer, simpler, and most of all, helps our companies better compete in the global marketplace. The bill we are introducing today will not fix all of our tax code's many problems in the international area, but it is an excellent start. I urge our colleagues to give their consideration to this important piece of legislation.

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By Mr. ROCKEFELLER:

S. 2677. A bill to improve consumer access to prescription drugs, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce a bill that affects all of our lives. This bill gets to the heart of an issue that Congress has been talking about for years, access to prescription drugs. As the name implies, the Consumer Access to Prescription Drugs Improvement Act of 2002 seeks to improve access to prescription drugs for every person who needs medication.

Today, people rely on prescription drugs for several different reasons. For some people, prescription drugs make life more comfortable. Some would not survive without them. Prescription drugs have become an intricate part of modern medicine, replacing procedures that once required an inpatient stay. Ailments that once could not be treated can now be cured with a little pill. The innovation that has been displayed is amazing and must continue.

The problem, however, is that prescription drug manufacturers have been distorting the market. Drug manufacturers are exploiting loopholes in existing laws to further extend their monopolies and keep generic drugs off the market. The result, after years of paying monopoly prices, consumers continue to be cheated out of cost-effective alternatives. We've all heard the horror stories of people going without their medications, splitting pills, or making the choice between food and drugs. However, the consequences of actions taken by drug manufacturers are actually more global. They are taking a terrible toll on State budgets, forcing Medicaid to severely scale back their coverage of our most needed population. They are causing employer health care premiums to go through the roof. These pressures will cause the number of uninsured to increase and will ultimately limit access to health care.

The group that suffers the most due to drug cost growth is seniors. Millions of seniors have no drug coverage today. Over the past five years, the 50 prescription drugs most commonly used by seniors have increased in price by nearly twice the rate of inflation. In fact, over 25 percent of these drugs increased in price by three or more times the rate of inflation over that time period. According to the Kaiser Family Foundation, the average retail prescription price for brand name drugs has increased more than 58 percent in 10 years. Brandeis University recently released a report on this issue. The major conclusion of the report is that greater and appropriate use of generic medications can achieve $50–$100 billion in savings for any new Medicare drug benefit. This legislation will make a Medicare drug benefit affordable and sustainable into the future. Senators should be aware that I plan to offer this legislation as an amendment to any Medicare prescription drug benefit that the Senate considers.

This legislation will stop pharmaceutical companies from circumventing the law and open the door to competition so that every consumer from West Virginia to California has access to reasonably priced prescription drugs. However, this legislation will also go further. It will provide crucial information to physicians, consumers, and health care purchasers about the cost-effective generics that are equivalent to brand names. According to the Federal Trade Commission, generic drugs typically cost 25 percent less than brand-name drugs when they first enter the market. After two years, the price difference grows to 60 percent. Every patient should have access to the drug prescribed by their doctor, but if there is a drug out there that is equivalent to the brand name but will cost you half as much, don't you want your physician to know about it? This bill will shine a spotlight on the real costs and the effects of issues we hear so much about, direct-to-consumer advertising, drug detailing, and sampling. We can no longer afford to talk about these issues in broad, hypothetical terms. Congress and the public need to understand these issues better so that we can be more prudent purchasers. This legislation will create the correct incentives, to innovate rather than litigate.

Finally, this legislation will expand access to drugs under existing programs which are so crucial to those who rely on them. This legislation will expand Medicare's current drug benefit to include all cancer drugs, regardless of the method by which they are administered. It will allow public hospitals access to the drug prices they need to be able to continue in their mission to provide care to our neediest citizens. It will help states with their drug utilization review programs which we all know are cost effective. I urge my colleagues to join me in this effort.

My efforts are supported by the Service Employees International Union, the American Federation of State, County and Municipal Employees, the AFL-CIO, Families USA, the Generic Pharmaceutical Association, the National Association of Chain Drug Stores, and Representative WAXMAN, the author of the original legislation.

Representative WAXMAN stated:

> Now more than ever, as the cost of prescription drugs has skyrocketed, access to low-cost generics is essential. At a time when the brand-name companies have few innovative products in their pipelines, we are seeing a disturbing trend: a growing number of companies are choosing to protect their profits through legal maneuvers to delay generic competition on their existing products. The price of this anti-competitive behavior to our nation's health care bill and to the health of Americans is shockingly high. It is time that Congress acted to stop unnecessary delays in the marketing of generic drugs. The bill that Senator Rockefeller is introducing today makes a real contribution to the effort to combat these problems.

This legislation is a commonsense step we can take to increase access to prescription drugs for all consumers. I urge Congress to consider and pass this legislation. I ask unanimous consent

that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2677

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Consumer Access to Prescription Drugs Improvement Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:



**SEC. 2. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) prescription drugs are a crucial part of modern medicine, serving as complements to medical procedures, substitutes for surgery and other medical procedures, and new forms of treatment;

(2) a lack of access to prescription drugs can not only cause discomfort, but can be life-threatening to a patient;

(3)(A) by all accounts, double-digit prescription drug price increases are forecast annually for the next 3 to 5 years; and

(B) such increases would result in prescription drug costs that would be prohibitive for many Americans;

(4) the Congressional Budget Office estimates that—

(A) the use of generic prescription drugs for brand-name prescription drugs could save purchasers of prescription drugs between $8,000,000,000 and $10,000,000,000 each year; and

(B) generic prescription drugs cost between 25 percent and 60 percent less than brand-name prescription drugs, resulting in an estimated average saving of $15 to $30 on each prescription;

(5) expanding access to generic prescription drugs can help consumers, especially seniors and the uninsured, have access to more affordable prescription drugs;

(6) policymakers should be better informed about issues relating to prescription drugs, particularly issues concerning barriers to patient access to prescription drugs;

(7) health care purchasers should be more aware of safe, cost-effective alternatives to brand-name prescription drugs; and

(8) prescription drug coverage provided under existing programs should be expanded to better reflect modern technology and provide drugs to the people who rely on them most, yet who increasingly find themselves uninsured or with coverage that is becoming more expensive and less meaningful.

(b) PURPOSES.—The purposes of this Act are—

(1) to better educate policymakers, purchasers, and the public about safe and cost-effective generic alternatives, barriers to market entry, and upcoming issues in the pharmaceutical industry;

(2) to increase consumer access to prescription drugs by—

(A) decreasing price through increased competition; and

(B) expanding coverage under the medicare and medicaid programs.

**TITLE I—EXPANSION OF ACCESS THROUGH EDUCATION AND INFORMATION**

**SEC. 101. PHARMACEUTICAL ADVISORY COMMITTEE.**

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1805 the following:

''PHARMACEUTICAL ADVISORY COMMITTEE

''SEC. 1805A. (a) ESTABLISHMENT.—There is established, as part of the Medicare Payment Advisory Commission established under section 1805, a committee to be known as the 'Pharmaceutical Advisory Committee' (referred to in this section as the 'Committee').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The Committee shall be composed of 11 members appointed by the Comptroller General of the United States.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—The Committee members shall be selected from among—

''(i) individuals with expertise in and knowledge of the pharmaceutical industry (brand name and generic), including expertise in and knowledge of pharmaceutical—

''(I) development;

''(II) pricing;

''(III) distribution;

''(IV) marketing;

''(V) reimbursement; and

''(VI) patent law; and

''(ii) providers of health and related services;

''(B) REPRESENTATION.—The members of the Committee shall include—

''(i) physicians and other health professionals;

''(ii) employers;

''(iii) third-party payers;

''(iv) representatives of consumers;

''(v) individuals having—

''(I) skill in the conduct and interpretation of pharmaceutical and health economics research; and

''(II) expertise in outcomes, effectiveness research, and technology assessment; and

''(vi) patent attorneys.

''(C) CONFLICTS OF INTEREST.—The members of the Committee shall not include any individual who, within the 5-year period preceding the date of appointment to the Committee, has been an officer or employee of a drug manufacturer or has been employed as a consultant to a drug manufacturer.

''(D) REPRESENTATION.—The members of the Committee shall be broadly representative of various professions, geographic regions, and urban and rural areas.

''(E) LIMITATION.—Not more than ½ of the members appointed under this subsection may be directly involved in the provision, management, or delivery of items and services covered under this title.

''(F) PUBLIC DISCLOSURE.—As soon as practicable after the date of enactment of this Act, the Comptroller General of the United States shall establish rules for the public disclosure of financial and other potential conflicts of interest by members of the Committee.

''(3) TERMS; VACANCIES.—

''(A) TERMS.—

''(i) IN GENERAL.—Except as provided in clause (ii), a member of the Committee shall be appointed for a term of 3 years.

''(ii) INITIAL TERMS.—Of the members first appointed to the Committee under this subsection—

''(I) 4 shall be appointed for a term of 1 year; and

''(II) 4 shall be appointed for a term of 2 years.

''(iii) CARRYOVER.—After the term of a member of the Committee has expired, the member may continue to serve until a successor is appointed.

''(B) VACANCIES.—

''(i) IN GENERAL.—A vacancy on the Committee—

''(I) shall not affect the powers of the Committee; and

''(II) shall be filled in the same manner as the original appointment was made.

''(ii) FILLING OF UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

''(4) MEETINGS.—The Committee shall meet at the call of the chairperson.

''(5) CHAIRPERSON; VICE CHAIRPERSON.—The Comptroller General shall appoint 1 of the members as chairperson and 1 of the members as vice chairperson.

''(c) DUTIES.—

''(1) IN GENERAL.—The Committee shall—

''(A) review payment policies for drugs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.); and

''(B) make recommendations to Congress with respect to the payment policies.

''(2) INCLUSIONS.—The matters to be studied by the Committee under paragraph (1) include—

''(A) the effects of direct-to-consumer advertising, drug detailing, and sampling;

''(B) the level of use of generic drugs as safe and cost-effective alternatives to brand name drugs;

''(C) the barriers to approval of generic drugs, including consideration of all of the matters described in paragraph (3);

''(D) the adequacy of drug price metrics, including the average wholesale price and the average manufacturers price;

''(E) the effectiveness of various education methods on changing clinical behavior;

''(F) the effectiveness of common drug management tools, including drug use review and use of formularies;

''(G) the perception of patients, physicians, nurses, and pharmacists of generic prescription drugs as safe and effective substitutes for brand-name prescription drugs;

''(H) the costs of research and development and the costs of clinical trials associated with producing a drug;

''(I) the relationship between pharmacy benefit managers and prescription drug manufacturers;

''(J) best practices to increase medical safety and reduce medical errors; and

''(K) polypharmacy and underutilization.

''(3) BARRIERS TO APPROVAL.—The matters for consideration referred to in paragraph (2)(C) include—

''(A) the appropriate balance between rewarding scientific innovation and providing affordable access to health care;

''(B) features of the communication process and grievance procedure of the Committee that provide opportunities for tactics that unduly delay generic market entry;

''(C) the use of the citizen's petition process to delay generic market entry;

''(D) the use of changes to a drug product (including a labeling change) timed to delay generic approval; and

''(E) the impact of granting patents on diagnostic methods such as patents on genes and genetic testing systems on access to affordable health care.

''(4) REPORT.—Not later than January 1 of each year, the Committee shall submit to Congress a report on—

''(A) the results of the reviews and recommendations;

''(B) issues affecting drug prices, including use of and access to generic drugs; and

''(C) the effect of drug prices on spending by government-sponsored health care programs and health care spending in general.

''(d) POWERS.—

''(1) INFORMATION FROM FEDERAL AGENCIES.—

''(A) IN GENERAL.—The Committee may secure directly from a Federal department or agency such information as the Committee considers necessary to carry out this section.

''(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Committee, the head of the Federal department or agency shall provide the information to the Committee.

''(2) DATA COLLECTION.—To carry out the duties of the Committee under subsection (c), the Committee shall—

''(A) collect and assess published and unpublished information that is available on the date of enactment of this Act;

''(B) if information available under subparagraph (A) is inadequate, carry out, or award grants or contracts for, original research and experimentation; and

''(C) adopt procedures to allow members of the public to submit information to the Committee for inclusion in the reports and recommendations of the Committee.

''(3) ADDITIONAL POWERS.—The Committee may—

''(A) seek assistance and support from appropriate Federal departments and agencies;

''(B) enter into any contracts or agreements as are necessary to carry out the duties of the Committee, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

''(C) make advance, progress, and other payments that relate to the duties of the Committee;

''(D) provide transportation and subsistence for persons serving without compensation; and

''(E) promulgate regulations for the internal organization and operation of the Committee.

''(e) COMMITTEE PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—

''(A) IN GENERAL.—A member of the Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board.

''(B) TRAVEL EXPENSES.—A member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

''(2) STAFF.—

''(A) IN GENERAL.—The Committee may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Committee to perform the duties of the Committee.

''(B) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(C) EMPLOYEES OF THE FEDERAL GOVERNMENT.—For the purposes of compensation, benefits, rights, and privileges, the staff of the Committee shall be considered employees of the Federal Government.

''(f) REQUEST FOR APPROPRIATIONS.—

''(1) IN GENERAL.—The Committee shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations.

''(2) SEPARATE AMOUNTS.—Notwithstanding paragraph (1), amounts appropriated for the Committee shall be separate from amounts appropriated for the Comptroller General.''.

**SEC. 102. GUIDANCE FOR PAYER AND MEDICAL COMMUNITIES.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall issue guidance for the payer community and the medical community on—

(1) how consumers, physicians, nurses, and pharmacists should be educated on generic drugs; and

(2) the need to potentially educate pharmacy technicians, nurse practitioners, and physician assistants on generic drugs.

(b) MATTERS TO BE ADDRESSED.—The guidance shall include such items as—

(1) a recommendation for allotment of a portion of yearly continuing education hours to the subject of generic drugs similar to recommendations for continuing education already in place for pharmacists in some States on pharmacy law and AIDS;

(2) a recommendation to all medical education governing bodies regarding course curricula concerning generic drugs to include in the course work of medical professionals;

(3) a recommendation on how the Food and Drug Administration could notify physicians and pharmacists when a brand name drug becomes available as a generic drug and what information could be included in the notification;

(4) the establishment of a speaker's bureau available to groups by geographic region to speak and provide technical assistance on issues relating to generic drugs, to be available to pharmacists, consumer groups, physicians, nurses, and local media; and

(5) the proposition of a survey on perception and awareness of generic drugs at the beginning and end of an educational campaign to test the effectiveness of the campaign on different audiences.

(c) PUBLIC EDUCATION.—The Secretary shall provide for the education of the public on the availability and benefits of generic drugs.

(d) NOTIFICATION OF NEW GENERIC PRESCRIPTION DRUG APPROVALS.—As soon as practicable after a new generic prescription drug is approved, the Secretary shall—

(1) notify physicians, pharmacists, and other health care providers of the approval; and

(2) inform health care providers of the brand-name prescription drug for which the generic prescription drug is a substitute.

**SEC. 103. STUDY OF PROCEDURES AND SCIENTIFIC STANDARDS FOR EVALUATING GENERIC BIOLOGICAL PRODUCTS.**

(a) IN GENERAL.—The Institute of Medicine shall conduct a study to evaluate—

(1) the feasibility of producing generic versions of biological products; and

(2) the relevance of the source materials and the manufacturing process to the production of the generic versions.

(b) ESTABLISHMENT OF PROCESS.—

(1) IN GENERAL.—If, as a result of the study under subsection (a), the Institute of Medicine finds that it would be feasible to produce generic versions of biological products, not later than 3 years after the date of the completion of the study, the Secretary, shall prescribe procedures and conditions under which biological products intended for human use may be approved under an abbreviated application or license.

(2) APPLICATION.—An abbreviated application or license shall, at a minimum, contain—

(A) information showing that the conditions of use prescribed, recommended, or suggested in the labeling proposed for the new biological product have been previously approved for a drug subject to regulation under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or under section 351 of the Public Health Service Act (42 U.S.C. 262) (referred to in this subsection as a ''listed drug'');

(B) information to show that the new biological product has chemical and biological characteristics comparable to the characteristics of the listed drug; and

(C) information showing that the new biological product has a safety and efficacy profile comparable to that of the listed drug.

(3) PRODUCT STANDARDS.—The Secretary, on the initiative of the Secretary or on petition, may by regulation promulgate drug product standards, procedures, and conditions to determine insignificant changes in a biological product that do not affect the scientific and medical soundness of product approval and interchangeability.

**SEC. 104. INSTITUTE OF MEDICINE STUDY.**

(a) IN GENERAL.—The Institute of Medicine shall convene a committee to conduct a study to determine—

(1) whether information regarding the relative efficacy and effectiveness of drugs (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) and biological products (as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i))) is available to the public for independent and external review;

(2) whether the benefits of drugs and biological products, and particularly the relative benefits of similar drugs and biological products, are understood by physicians and patients; and

(3) whether prescribing and use patterns are unduly or inappropriately influenced by marketing to physicians and direct advertising to patients.

(b) RECOMMENDATIONS.—If problems are identified by the study conducted under subsection (a), the committee shall make recommendations to the Commissioner of Food and Drugs for improvement, including recommendations regarding—

(1) ways to better review the relative efficacy and effectiveness of drugs approved for use by the Food and Drug Administration;

(2) the appropriate governmental or nongovernmental body to conduct the review described under paragraph (1); and

(3) ways to improve communication and dissemination of the information reviewed in paragraph (1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

## TITLE II—EXPANSION OF ACCESS THROUGH INCREASED COMPETITION

### SEC. 201. DRUG REIMBURSEMENT FUND.

Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 501 et seq.) is amended by adding at the end the following:

**"SEC. 524. DRUG REIMBURSEMENT FUND.**

''(a) DEFINITIONS.—In this section:

''(1) DRUG PATENT.—The term 'drug patent' means a patent described in section 505(b)(1).

''(2) FUND.—The term 'Fund' means the Drug Reimbursement Fund established under subsection (b).

''(b) ESTABLISHMENT.—There is established in the Treasury of the United States a separate fund to be known as the 'Drug Reimbursement Fund'.

''(c) COMPTROLLER.—The Secretary shall appoint a comptroller to administer the Fund.

''(d) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall promulgate regulations for the operation of the Fund, including the method of payments from the Fund and designation of beneficiaries of the Fund.

''(2) ADMINISTRATIVE DETERMINATIONS.—The regulations under paragraph (1) may permit the administrative determination of the claims of health insurers, State and Federal Government programs, and third-party payers or other parties that are disadvantaged by the conduct of drug manufacturers that seek to bring spurious civil actions for infringement of drug patents in order to block the production and marketing of lower-cost drug alternatives.

''(e) CONTRIBUTIONS TO THE FUND.—

''(1) IN GENERAL.—In any civil action under section 505 or 512 or in a civil action for infringement of a drug patent (as defined in section 524(a)) under chapters 28 and 29 of title 35, United States Code—

''(A) if the Court determines that the drug patent is invalid or that the drug patent is not otherwise infringed, but that the plaintiff obtained an injunction against the defendant for the production or marketing of the drug to which the drug patent relates, the Court shall order the plaintiff to pay to the Fund the amount that is equal to—

''(i) the amount that is equal to the amount of net revenues generated by the plaintiff from the production or marketing of the drug during the period in which the injunction was in effect, plus an additional period of 12 months; minus

''(ii) the amount of any special damages paid by the plaintiff under section 524(m); or

''(B) if the defendant enters into a settlement agreement or any other arrangement under which the defendant agrees to withdraw an application under section 505 or 512, the Court shall order the defendant to pay to the Fund the amount that is equal to 50 percent of the amount (including the value of any form of property) that the defendant receives from the plaintiff under the arrangement.

''(2) COLLECTION.—The United States may seek to enforce collection of a contribution required to be made to the Fund by bringing a civil action in United States district court.''.

### SEC. 202. PATENT CERTIFICATION.

(a) IN GENERAL.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended—

(1) in subparagraph (B)—

(A) by striking ''(B) The approval'' and inserting the following:

''(B) EFFECTIVE DATE OF APPROVAL.—Except as provided in subparagraph (C), the approval''; and

(B) by striking clause (iii) and inserting the following:

''(iii) CERTIFICATION THAT PATENT IS INVALID OR WILL NOT OTHERWISE BE INFRINGED.—

''(I) NO CIVIL ACTION FOR PATENT INFRINGEMENT OR DECLARATORY JUDGMENT, OR NO MOTION FOR PRELIMINARY INJUNCTION.—Except as provided in subclause (II), if—

''(aa) the applicant made a certification described in paragraph (2)(A)(vii)(IV);

''(bb) none of the conditions for denial of approval stated in paragraph (4) applies;

''(cc)(AA) no civil action for infringement of a patent that is the subject of the certification is brought before the expiration of the 45-day period beginning on the date on which the notice provided under paragraph (2)(B)(ii) was received; or

''(BB) a civil action is brought as described in subitem (AA), but no motion for preliminary injunction is filed within 90 days of commencement of the civil action; and

''(dd) the applicant does not bring a civil action for declaratory judgment of invalidity or other noninfringement of the patent before the expiration of the 60-day period beginning on the date on which the notice provided under paragraph (2)(B)(ii) was received; the approval shall be made effective on the expiration of 60 days after the date on which the notice provided under paragraph (2)(B)(ii) was received.

''(II) CIVIL ACTION FOR PATENT INFRINGEMENT OR DECLARATORY JUDGMENT.—If—

''(aa)(AA) a civil action for infringement of a patent that is the subject of the certification is brought before the 45-day period beginning on the date on which the notice provided under paragraph (2)(B)(ii) was received; or

''(BB) the applicant brings a civil action for declaratory judgment of invalidity or other noninfringement of the patent before the expiration of the 60-day period beginning on the date on which the notice under paragraph (2)(B)(ii) was received;

''(bb) the holder of the approved application or the owner of the patent seeks a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture and sale of the drug; and

''(cc) none of the conditions for denial of approval stated in paragraph (4) applies;

the approval shall be made effective on issuance by a United States district court of a decision and order that denies a preliminary injunction, or, in a case in which a preliminary injunction has been granted by a United States district court prohibiting the applicant from engaging in the commercial manufacture or sale of the drug, a decision and order that determines that the drug patent is invalid or that the drug patent is not otherwise infringed.

''(III) PROCEDURE.—In a civil action brought as described in subclause (II)—

''(aa) the civil action shall be brought in the judicial district in which the defendant has its principal place of business or a regular and established place of business;

''(bb) each of the parties shall reasonably cooperate in expediting the civil action;

''(cc) the court shall not consider a motion for preliminary injunction unless the motion is filed within 90 days of commencement of the civil action; and

''(dd) the holder of the approved application or the owner of the patent shall be entitled to a preliminary injunction if the holder or owner demonstrates a likelihood of success on the merits and without regard to whether the holder or owner would suffer immediate or irreparable harm or to any other factor.'';

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (B) the following:

''(C) EFFECTIVENESS ON CONDITION.—

''(i) NOTICE.—The applicant of an application that has been approved under subparagraph (A) but for which the approval has not yet been made effective under subparagraph (B) (referred to in this subparagraph as the 'previous application') and with respect to which a preliminary injunction has been issued prohibiting the commercial manufacture or sale of the drug subject to the previous application may submit to the Secretary a notice stating that—

''(I) the applicant expects to receive, within 180 days, a United States district court decision and order that vacates the preliminary injunction and denies a permanent injunction or determines that the patent is invalid or is otherwise not infringed (referred to in this subparagraph as a 'noninfringement decision');

''(II) requests the immediate issuance of an approval of the application conditioned on a noninfringement decision within the specified time;

''(III) agrees that—

''(aa) the applicant will not settle or otherwise compromise the noninfringement decision in any manner that would prevent or delay the immediate marketing of the drug under the approved application; and

''(bb) the applicant will notify the Secretary of the noninfringement decision (or if a decision is rendered that is not a noninfringement decision, will notify the Secretary of that decision) not later than 5 days after the date of entry of judgment; and

''(IV) consents to the immediate withdrawal of the approval, without opportunity for a hearing, if the applicant fails to comply with the agreement under subclause (III) or if the noninfringement decision is vacated by the district court or reversed on appeal.

''(ii) APPROVAL.—On receipt of a notice under clause (i), if none of the conditions for denial of approval stated in paragraph (4) applies, the Secretary shall immediately issue an effective approval of the application conditioned on the receipt of a noninfringement decision within the specified time, subject to immediate withdrawal if the applicant fails to comply with the agreement under clause (i)(III).

''(iii) EFFECT.—If a noninfringement decision is rendered, the date of the final decision of a court referred to in subparagraph (B)(iv)(II)(aa) shall be the date of the noninfringement decision, notwithstanding that the noninfringement decision may be, or has been, appealed.

''(D) CIVIL ACTION FOR DECLARATORY JUDGMENT.—A person that files an abbreviated application for a new drug under this section containing information showing that the conditions of use prescribed, recommended, or suggested in the labeling proposed for the new drug have been previously approved for a listed drug may bring a civil action—

''(i) against the holder of an approved application for the listed drug, for a declaratory judgment declaring that the certification made by the holder of the approved drug application under subsection (b)(5)(C) relating to the listed drug was not properly made; or

''(ii) against the owner of a patent that claims the listed drug, a method of using the listed drug, or the active ingredient in the listed drug, for a declaratory judgment declaring that the patent is invalid or will not otherwise be infringed by the new drug for which the applicant seeks approval.''.

(b) CONFORMING AMENDMENTS.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsections (b)(1)(A)(i) and (c)(1)(A)(i), by striking ''(j)(5)(D)(ii)'' each place it appears and inserting ''(j)(5)(G)(ii)'';

(2) in subsections (b)(1)(A)(ii) and (c)(1)(A)(ii), by striking ''(j)(5)(D)'' each place it appears and inserting ''(j)(5)(G)''; and

(3) in subsections (e) and (l), by striking ''505(j)(5)(D)'' each place it appears and inserting ''505(j)(5)(G)''.

**SEC. 203. ACCELERATED GENERIC DRUG COMPETITION.**

(a) IN GENERAL.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) (as amended by section 203) is amended—

(1) in subparagraph (B)(iv), by striking subclause (II) and inserting the following:

''(II) the earlier of—

''(aa) the date of a final decision of a court in an action described in clause (iii)(II) (from which no appeal has been or can be taken, other than a petition to the Supreme Court for a writ of certiorari) holding that the patent that is the subject of the certification is invalid or not otherwise infringed; or

''(bb) the date of a settlement order or consent decree signed by a Federal judge that enters a final judgment and includes a finding that the patent that is the subject of the certification is invalid or not otherwise infringed;''; and

(2) by inserting after subparagraph (D) the following:

''(E) FORFEITURE OF 180-DAY PERIOD.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) FORFEITURE EVENT.—The term 'forfeiture event' means the occurrence of any of the following:

''(aa) FAILURE TO MARKET.—An applicant fails to market the drug by the later of—

''(AA) the date that is 60 days after the date on which the approval of the application for the drug is made effective under subparagraph (B)(iii) (unless the Secretary extends the date because of the existence of extraordinary or unusual circumstances); or

''(BB) if the approval has been made effective and a civil action has been brought against the applicant for infringement of a patent subject to a certification under paragraph (2)(A)(vii)(IV) or a civil action has been brought by the applicant for a declaratory judgment that such a patent is invalid or not otherwise infringed, and if there is no other such civil action pending by or against the applicant, the date that is 60 days after the date of a final decision in the civil action, (unless the Secretary extends the date because of the existence of extraordinary or unusual circumstances).

''(bb) WITHDRAWAL OF APPLICATION.—An applicant withdraws an application.

''(cc) AMENDMENT OF CERTIFICATION.—An applicant, voluntarily or as a result of a settlement or defeat in patent litigation, amends the certification from a certification under paragraph (2)(A)(vii)(IV) to a certification under paragraph (2)(A)(vii)(III).

''(dd) FAILURE TO OBTAIN APPROVAL.—An applicant fails to obtain tentative approval of an application within 30 months after the date on which the application is filed, unless the failure is caused by—

''(AA) a change in the requirements for approval of the application imposed after the date on which the application is filed; or

''(BB) other extraordinary circumstances warranting an exception, as determined by the Secretary.

''(ee) FAILURE TO CHALLENGE PATENT.—In a case in which, after the date on which an applicant submitted an application under this subsection, new patent information is submitted under subsection (c)(2) for the listed drug for a patent for which certification is required under paragraph (2)(A), the applicant fails to submit, not later than 60 days after the date on which the applicant receives notice from the Secretary under paragraph (7)(A)(iii) of the submission of the new patent information either a certification described in paragraph (2)(A)(vii)(IV) or a statement that the method of use patent does not claim a use for which the applicant is seeking approval under this subsection in accordance with paragraph (2)(A)(viii) (unless the Secretary extends the date because of extraordinary or unusual circumstances).

''(ff) MONOPOLIZATION.—The Secretary, after a fair and sufficient hearing, in consultation with the Federal Trade Commission, and based on standards used by the Federal Trade Commission in the enforcement of Acts enforced by the Federal Trade Commission, determines that the applicant at any time engaged in—

''(AA) anticompetitive or collusive conduct; or

''(BB) any other conduct intended to unlawfully monopolize the commercial manufacturing of the drug that is the subject of the application.

''(II) SUBSEQUENT APPLICANT.—The term 'subsequent applicant' means an applicant that submits a subsequent application under clause (ii).

''(ii) FORFEITURE EVENT OCCURS.—If—

''(I) a forfeiture event occurs;

''(II) no action described in subparagraph (B)(iii)(II) was brought against or by the previous applicant, or such an action was brought but did not result in a final judgment that included a finding that the patent is invalid; and

''(III) an action described in subparagraph (B)(iii)(II) is brought against or by the next applicant, and the action results in a final judgment that includes a finding that the patent is invalid;

the 180-day period under subparagraph (B)(iv) shall be forfeited by the applicant and shall become available to an applicant that submits a subsequent application containing a certification described in paragraph (2)(A)(vii)(IV).

''(iii) FORFEITURE EVENT DOES NOT OCCUR.—If a forfeiture event does not occur, the application submitted subsequent to the previous application shall be treated as the previous application under subparagraph (B)(iv).

''(iv) AVAILABILITY.—The 180-day period under subparagraph (B)(iv) shall be available only to—

''(I) the previous applicant submitting an application for a drug under this subsection containing a certification described in paragraph (2)(A)(vii)(IV) with respect to any patent; or

''(II) under clause (i), a subsequent applicant submitting an application for a drug under this subsection containing such a certification with respect to any patent;

without regard to whether an application has been submitted for the drug under this subsection containing such a certification with respect to a different patent.

''(v) APPLICABILITY.—The 180-day period described in subparagraph (B)(iv) shall apply only if—

''(I) the application contains a certification described in paragraph (2)(A)(vii)(IV); and

''(II)(aa) an action is brought for infringement of a patent that is the subject of the certification; or

''(bb) not later than 60 days after the date on which the notice provided under paragraph (2)(B)(ii) is received, the applicant brings an action against the holder of the approved application for the listed drug.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective only with respect to an application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) after the date of enactment of this Act for a listed drug for which no certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before June 7, 2002.

**SEC. 204. NOTICE OF AGREEMENTS SETTLING CHALLENGES TO CERTIFICATIONS THAT A PATENT IS INVALID OR WILL NOT BE INFRINGED.**

(a) DEFINITIONS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

''(kk) BRAND NAME DRUG COMPANY.—The term 'brand name drug company' means a person engaged in the manufacture or marketing of a drug approved under section 505(b).

''(ll) GENERIC DRUG APPLICANT.—The term 'generic drug applicant' means a person that has filed for approval or received approval of an abbreviated new drug application under section 505(j).''.

(b) NOTICE OF AGREEMENTS SETTLING CHALLENGES TO CERTIFICATIONS THAT A PATENT IS INVALID OR WILL NOT OTHERWISE BE INFRINGED.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(o) NOTICE OF AGREEMENTS SETTLING CHALLENGES TO CERTIFICATIONS THAT A PATENT IS INVALID OR WILL NOT OTHERWISE BE INFRINGED.—

''(1) IN GENERAL.—A brand name drug company and a generic drug applicant that enter into an agreement regarding the settlement of a challenge to a certification with respect to a patent on a drug under subsection 505(b)(2)(A)(iv) shall submit to the Secretary and the Attorney General a notice that includes—

''(A) a copy of the agreement;

''(B) an explanation of the purpose and scope of the agreement; and

''(C) an explanation whether there is any possibility that the agreement could delay, restrain, limit, or otherwise interfere with the production, manufacture, or sale of the generic version of the drug.

''(2) FILING DEADLINES.—A notice required under paragraph (1) shall be submitted not later than 10 business days after the date on which the agreement described in paragraph (1) is entered into.

''(3) ENFORCEMENT.—

''(A) CIVIL PENALTY.—

''(i) IN GENERAL.—A person that fails to comply with paragraph (1) shall be liable for a civil penalty of not more than $20,000 for each day of failure to comply.

''(ii) PROCEDURE.—A civil penalty under clause (i) may be recovered in a civil action brought by the Secretary or the Attorney General in accordance with section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)).

''(B) COMPLIANCE AND EQUITABLE RELIEF.—If a person fails to comply with paragraph (1), on application of the Secretary or the Attorney General, a United States district court may order compliance and grant such other equitable relief as the court determines to be appropriate.

''(4) REGULATIONS.—The Secretary, with the concurrence of the Attorney General, may by regulation—

''(A) require that a notice required under paragraph (1) be submitted in such form and contain such documentary material and information relevant to the agreement as is appropriate to enable the Secretary and the Attorney General to determine whether the agreement may violate the antitrust laws; and

''(B) prescribe such other rules as are appropriate to carry out this subsection.''.

**SEC. 205. PUBLICATION OF INFORMATION IN THE ORANGE BOOK.**

(a) DEFINITION OF ORANGE BOOK.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by section 205(a)) is amended by adding at the end the following:

''(mm) ORANGE BOOK.—The term 'Orange Book' means the publication published by the Secretary under section 505(b)(1).''.

(b) PUBLICATION OF INFORMATION IN THE ORANGE BOOK.—Section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) is amended—

(1) in the fourth sentence of paragraph (1), by inserting before the period at the end the following: ''in a publication entitled 'Approved Drug Products With Therapeutic Equivalence Indications' (commonly known as the 'Orange Book')''; and

(2) by adding at the end the following:

''(5) PUBLICATION OF INFORMATION IN THE ORANGE BOOK.—

''(A) DEFINITIONS.—In this paragraph:

''(i) INTERESTED PERSON.—The term 'interested person' includes—

''(I) an applicant under paragraph (1);

''(II) any person that is considering engaging in the manufacture, production, or marketing of a drug with respect to which there may be a question whether the drug infringes the patent to which information submitted under the second sentence of paragraph (1) pertains;

''(III) the Federal Trade Commission; and

''(IV) a representative of consumers.

''(ii) QUALIFIED PATENT INFORMATION.—The term 'qualified patent information' means information that meets the requirement of the second sentence of paragraph (1) that a patent with respect to which information is submitted under that sentence be a patent with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug that is the subject of an application under paragraph (1).

''(B) DUTY OF THE SECRETARY.—The Secretary shall publish in the Orange Book only information that is qualified patent information.

''(C) CERTIFICATION.—

''(i) IN GENERAL.—Information submitted under the second sentence of paragraph (1) shall not be published in the Orange Book unless the applicant files a certification, subject to section 1001 of title 18, United States Code, and sworn in accordance with section 1746 of title 28, United States Code, that discloses the patent data or information that forms the basis of the entry.

''(ii) CONTENTS.—A certification under clause (i) shall—

''(I)(aa) identify all relevant claims in the patent information for which publication in the Orange Book is sought; and

''(bb) with respect to each such claim, a statement whether the claim covers an approved drug, an approved method of using the approved drug, or the active ingredient in the approved drug (in the same physical form as the active ingredient is present in the approved drug);

''(II) state the approval date for the drug;

''(III) state an objectively reasonable basis on which a person could conclude that each relevant claim of the patent covers an approved drug, an approved method of using the approved drug, or the active ingredient in the approved drug (in the same physical form as the active ingredients is present in the approved drug);

''(IV) state that the information submitted conforms with law; and

''(V) state that the submission is not made for the purpose of delay or for any improper purpose.

''(iii) REGULATIONS.—

''(I) IN GENERAL.—Not later than 16 months after the date of enactment of this paragraph, the Secretary, in consultation with the United States Patent and Trademark Office, shall promulgate regulations governing certifications under clause (i).

''(II) CIVIL PENALTIES.—The regulations under subclause (I) shall prescribe civil penalties for the making of a fraudulent or misleading statement in a certification under clause (i).

''(D) CONSULTATION.—For the purpose of deciding whether information should be published in Orange Book, the Secretary may consult with the United States Patent and Trademark Office.

''(E) PUBLICATION OF DETERMINATION.—The Secretary shall publish in the Federal Register notice of a determination by the Secretary whether information submitted by an applicant under the second sentence of paragraph (1) is or is not qualified patent information.

''(F) PETITION TO RECONSIDER DETERMINATION.—

''(i) IN GENERAL.—An interested person may file with the Secretary a petition to reconsider the determination.

''(ii) CONTENTS.—A petition under clause (i) shall describe in detail all evidence and present all reasons relied on by the petitioner in support of the petition.

''(iii) NOTICE.—The Secretary shall publish in the Federal Register notice of the filing of a petition under clause (i).

''(iv) RESPONSE.—Not later than 30 days after publication of a notice under clause (iii), any interested person may file with the Secretary a response to the petition.

''(v) REPLY.—Not later than 15 days after the filing of a response under clause (iv), the petitioner may file with the Secretary a reply to the response.

''(vi) REGULATIONS.—The Secretary may promulgate regulations providing for any additional procedures for the conduct of challenges under this subparagraph.''.

(c) EXPEDITED REVIEW OF THE ORANGE BOOK.—

(1) USE OF DEFINED TERMS.—Terms used in this subsection that are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.) (as amended by this section) having the meanings given the terms in that Act.

(2) EXPEDITED REVIEW.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) complete a review of the Orange Book to identify any information in the Orange Book that is not qualified patent information; and

(B) delete any such information from the Orange Book.

(3) PRIORITY.—In conducting the review under paragraph (2), the Secretary shall give priority to making determinations concerning information in the Orange Book with respect to which any interested person may file a petition for reconsideration under paragraph (5)(F) of section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)), as added by subsection (b).

(d) DIFFERENCES IN LABELING.—Section 505(j)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)) is amended—

(1) in subparagraph (A)(v)—

(A) by striking ''subparagraph (C) or because'' and inserting ''subparagraph (C), because''; and

(B) by inserting after ''manufacturers'' the following: '', or because of the omission of an indication or other aspect of labeling that is required by patent protection or exclusivity accorded under paragraph (5)(D)''; and

(2) by adding at the end the following:

''(D) LABELING CONSISTENT WITH LABELING FOR EARLIER VERSION OF LISTED DRUG.—For the purposes of subparagraph (A)(v), information showing that labeling proposed for the new drug that is the same as the labeling previously approved for the listed drug, although not for the current version of the listed drug, shall be deemed to be the same labeling as that approved for the listed drug so long as the previously approved labeling is not incompatible with a safe and effective new drug.''.

**SEC. 206. NO ADDITIONAL 30-MONTH EXTENSION.**

Section 505(j)(5)(B)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (j)(5)(B)(iii) is amended by inserting after the fourth sentence the following: ''Once a thirty-month period begins under the second sentence of this clause with respect to any application under this subsection, there shall be no additional thirty-month period or extension of the thirty-month period with respect to the application by reason of the making of any additional certification described in subclause (IV) of paragraph (2)(A)(vii) or for any other reason.''.

## TITLE III—EXPANSION OF ACCESS THROUGH EXISTING PROGRAMS

**SEC. 301. MEDICARE COVERAGE OF ALL ANTICANCER ORAL DRUGS.**

(a) IN GENERAL.—Section 1861(s)(2)(Q) of the Social Security Act (42 U.S.C. 1395x(s)(2)(Q)) is amended by striking ''anticancer chemotherapeutic agent for a given indication,'' and all that follows and inserting ''anticancer agent for a medically accepted indication (as defined in subsection (t)(2)(B));''.

(b) CONFORMING AMENDMENT.—Section 1834(j)(5)(F)(iv) of the Social Security Act (42 U.S.C. 1395m(j)(5)(F)(iv)) is amended by striking ''therapeutic''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to drugs furnished on or after the date that is 90 days after the date of enactment of this Act.

**SEC. 302. REMOVAL OF STATE RESTRICTIONS.**

(a) THERAPEUTIC EQUIVALENCE.—Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended—

(1) in paragraph (5)(A)—

(A) by striking ''(5)(A) Within one hundred and eighty days of the'' and inserting the following:

''(5) TIME PERIODS.—

''(A) APPROVAL OR DISAPPROVAL.—

''(i) IN GENERAL.—Not later than 180 days after the date of''; and

(B) by adding at the end the following:

''(ii) FINDING REGARDING THERAPEUTIC EQUIVALENCE.—When the Secretary approves an application submitted under paragraph (1), the Secretary shall include in the approval a finding whether the drug for which the application is approved (referred to in this paragraph as the 'subject drug') is the therapeutic equivalent of a listed drug.

''(iii) THERAPEUTIC EQUIVALENCE.—For purposes of clause (ii), a subject drug is the therapeutic equivalent of a listed drug if—

''(I) all active ingredients of the subject drug, the dosage form of the subject drug, the route of administration of the subject drug, and the strength or concentration of the subject drug are the same as those of the listed drug and the compendial or other applicable standard met by the subject drug is the same as that met by the listed drug (even though the subject drug may differ in shape, scoring, configuration, packaging, excipients, expiration time, or (within the limits established by paragraph (2)(A)(v)) labeling);

''(II) the subject drug is expected to have the same clinical effect and safety profile as

the listed drug when the subject drug is administered to patients under conditions specified in the labeling; and

''(III) the subject drug—

''(aa)(AA) does not present a known or potential bioequivalence problem; and

''(BB) meets an acceptable in vitro standard; or

''(bb) if the subject drug presents a known or potential bioequivalence problem, is shown to meet an appropriate bioequivalence standard.

''(iv) FINDING.—If Secretary finds that the subject drug meets the requirements of clause (iii) with respect to a listed drug, the Secretary shall include in the approval of the application for the subject drug a finding that the subject drug is the therapeutic equivalent of the listed drug.''; and

(2) in paragraph (7)(A)(i)(II), by striking ''and the number of the application which was approved'' and inserting '', the number of the application that was approved, and a statement whether a finding of therapeutic equivalence was made under paragraph (5)(A)(iv), and if so the name of the listed drug to which the drug is a therapeutic bioequivalent''.

(b) STATE LAWS.—Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended by adding at the end the following:

''(10) STATE LAWS.—No State or political subdivision of a State may establish or continue in effect with respect to a drug that is the subject of an application under paragraph (5) any requirement that is different from, or in addition to, any requirement relating to therapeutic equivalence applicable to the drug under paragraph (5).''.

**SEC. 303. MEDICAID DRUG USE REVIEW PROGRAM.**

(a) IN GENERAL.—Section 1927(g)(2) of the Social Security Act (42 U.S.C. 1396r–8(g)(2)) is amended by adding at the end the following:

''(E) GENERIC DRUG SAMPLES.—The program shall provide for the distribution of generic drug samples of covered outpatient drugs to physicians and other prescribers.''.

(b) FEDERAL PERCENTAGE OF EXPENDITURES.—Section 1903(a)(3)(D) of the Social Security Act (42 U.S.C. 1396b(a)(3)(D)) is amended by striking ''in 1991, 1992, or 1993,'' and inserting ''(beginning with fiscal year 2003)''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2002.

**SEC. 304. CLARIFICATION OF INCLUSION OF INPATIENT DRUG PRICES CHARGED TO CERTAIN PUBLIC HOSPITALS IN THE BEST PRICE EXEMPTIONS ESTABLISHED FOR PURPOSES OF THE MEDICAID DRUG REBATE PROGRAM.**

Section 1927(c)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(ii)) is amended—

(1) in subclause (II), by striking ''and'' at the end;

(2) in subclause (III), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(IV) with respect to a covered entity described in section 340B(a)(4)(L) of the Public Health Service Act, shall, in addition to any prices excluded under clause (i)(I), exclude any price charged on or after the date of enactment of this subparagraph, for any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, inpatient hospital services (and for which payment may be made under this title as part of payment for and not as direct reimbursement for the drug).''.

**SEC. 305. UPPER PAYMENT LIMITS FOR GENERIC DRUGS UNDER MEDICAID.**

Section 1927(e) of the Social Security Act (42 U.S.C. 1396r–8(e)) is amended by striking paragraph (4) and inserting the following:

''(4) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—

''(A) IN GENERAL.—The Administrator of the Centers for Medicare & Medicaid Services shall establish a upper payment limit for each multiple source drug for which the FDA has rated 3 or more products therapeutically and pharmaceutically equivalent.

''(B) PUBLIC AVAILABILITY OF NATIONAL DRUG CODE.—The Administrator of the Centers for Medicare & Medicaid Services shall make publicly available, at such time and together with the publication of the upper payment limits established in accordance with subparagraph (A), the national drug code (commonly referred to as the 'NDC') for each drug used as the reference product to establish the upper payment limit for a particular multiple source drug.

''(C) DEFINITION OF REFERENCE PRODUCT.—In subparagraph (B), the term 'reference product' means the specific drug product, the price of which is used by the Administrator of the Centers for Medicare & Medicaid Services to calculate the upper payment limit for a particular multiple source drug.''.

**TITLE IV—GENERAL PROVISIONS**

**SEC. 401. REPORT.**

(a) IN GENERAL.—Not later than the date that is 5 years after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report describing the extent to which implementation of the amendments made by this Act—

(1) has enabled products to come to market in a fair and expeditious manner, consistent with the rights of patent owners under intellectual property law; and

(2) has promoted lower prices of drugs and greater access to drugs through price competition.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

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By Mr. BAUCUS (for himself, Mr. CRAPO, Mr. HARKIN, Mr. WARNER, Mr. DASCHLE, Mr. CRAIG, Mr. BOND, Mr. GRAHAM, Mrs. CARNAHAN, Mr. REID, Mr. THOMAS, Mr. ENZI, and Mr. JOHNSON):

S. 2678. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the MEGATRUST Act, the Maximum Growth for America Through the Highway Trust Fund.

Next year, the Congress must reauthorize highway and transit programs and the system of Federal financing for them. This is a very important issue for our Nation. The highway and transit programs are very important in every State. Very few other pieces of legislation effect our country's citizens and businesses more directly than the highway bill. These are our ways for moving goods and people.

They are key to our economy and our ability to connect to one another. This country needs good, safe highways in order to cross great distances, and highway and transit construction and maintenance is an important part of every State's economy.

In order to facilitate our work in reauthorizing these programs, I plan to introduce a series of bills concerning important issues that Congress must address in that legislation.

This will be the first of those bills, a proposal concerning revenues for the highway trust fund. But unlike other bills I will introduce, this one must pass more quickly because it sets the foundation for the other bills I will be introducing later. This bill will represent how this country will help pay for our highway and transit needs over the next several years.

The MEGATRUST Act represents an important step in the effort to strengthen our Nation's economy, and improve its quality of life, by investing in transportation.

It would increase revenues into the highway trust fund by several billion dollars annually by making some needed corrections in the way Federal revenues are credited to the highway trust fund.

Nothing in this bill increases any tax. I repeat that. Nothing in this bill increases any tax.

Federal dollars to help States and localities improve their highways and transit systems are derived largely from the Federal highway trust fund. Under the system today, revenues from highway user taxes are deposited into the highway trust fund, and, more specifically, into separate accounts within the fund for highways and for transit. Those are two separate accounts.

These revenues are, in turn, distributed to States and localities for transportation investments that truly to improve our lives, create jobs, and make our economy better. This trust fund mechanism has been widely regarded as successful. But, as always, we must make adjustments to meet new challenges.

This bill would improve and extend this important financing mechanism, principally by making sure that certain revenues not currently credited to the highway trust fund are, in fact, placed in that fund.

The MEGATRUST Act does several things. First, it will ensure that taxes paid on gasohol are fully credited to the highway account of the highway trust fund. Today, when gasohol is taxed, the mass transit account of the highway trust fund receives its full share of revenues, as if the fuel were gasoline. But 2.5 cents of the gas tax per gallon that is imposed on gasohol is credited to the general fund of the Treasury, not to the highway account. So the MEGATRUST Act ensures that those 2.5 cents per gallon go to the highway account.

Second, the MEGATRUST Act will ensure that the highway system does not bear the cost of our national policy to develop and promote the use of gasohol. This tax rate preference is part of our national policy to advance the use of gasohol.

I believe the ethanol subsidy is good energy policy, good agriculture policy, and good tax policy. Yet ironically, it is the highway trust fund that bears the burden of the subsidy. Since it is good general policy—that is, gasohol—I believe the general fund should bear

the burden of the subsidy, not the highway trust fund.

Gasohol, as a fuel, is taxed 5.3 cents per gallon less than gasoline. But gasohol-fueled vehicles cause the same wear and tear on roads as gasoline-fueled vehicles. That is obvious. They use the same roads, travel the same distances, et cetera.

Ensuring necessary and affordable energy supplies is important to the quality of life and economic prosperity of all Americans. Policies to achieve these objectives, however, should not come at the expense of transportation infrastructure improvements.

Accordingly, the MEGATRUST Act would leave the gasohol tax rate preference in place but credit the highway account of the highway trust fund with revenue equal to that forgone to the Treasury by the gasohol tax preference.

Third, the MEGATRUST Act credits both the highway and mass transit accounts of the highway trust fund with interest starting in fiscal year 2004. Today, the highway trust fund is one of the few trust funds in the Federal budget that is not credited with interest on its unspent balance, which is highly inappropriate.

The MEGATRUST Act would change this in order to make sure that collected highway user taxes are to be put to work for better transportation for our citizens.

Fourth, the MEGATRUST Act would extend the basic highway user taxes and the highway trust fund so they do not expire.

And last, the MEGATRUST Act would require the creation of an important commission concerning the future financing of the Federal highway and transit programs.

Why is that important? While the current mechanism has worked well, we know that cars will become more fuel efficient and advancing technology will only bring us closer to increased fuel efficiency.

Other changes are possible as well in our dynamic economy. While major changes will not occur overnight, we have to be ready for them. We have to understand what is likely to happen so we can consider making adjustments in the highway trust fund and its revenue streams, so we are not caught off guard and unable to adequately fund our transportation system.

What am I saying? I am basically saying that the hybrid fuel vehicles—it could be fuels cells, other technologies for our automobiles of the future—they do not use gasoline, they do not use gasohol, therefore, revenue would not be placed in the highway trust fund. We have to anticipate all of those changes so our highways are adequately funded regardless of the types of cars and regardless of the type of energy that is used to propel those cars.

I especially thank Senators HARKIN, WARNER, CRAPO, GRAHAM of Florida, REID, DASCHLE, CARNAHAN, BOND, and CRAIG for working so closely with me on this legislation.

In sum, through this highway trust fund proposal, I want to make clear to my colleagues that there are ways to increase revenue into the highway trust fund without raising taxes. We will need to increase highway trust fund resources to help us all structure a successful reauthorization bill next year, and I look forward to working closely with my colleagues to that end.

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By Mr. BAUCUS (for himself, and Mr. SMITH of Oregon):

S. 2679. A bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage, to provide for the establishment of health plan purchasing alliances, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the ''Health Insurance Access Act'' of 2002.

This bill addresses one of the most serious problems facing the United States. The problem of the uninsured.

According to recent census data, 38 million Americans lack health insurance coverage. More than the population of twenty-three States. Plus the District of Columbia. And lack of coverage is an even greater problem in rural areas. In Montana, one in five citizens goes without health insurance. As premiums sky-rocket, I'm worried that this number may grow even higher.

For America's uninsured, the consequences of going without health coverage can be devastating.

Put plainly, uninsured Americans are less healthy than those with health insurance. They delay seeking medical care or go without treatment altogether that could prevent and detect crippling illnesses. Illnesses like diabetes, heart disease, and cancer. The uninsured are far less likely to receive health services if they are injured or become ill.

These factors take an enormous personal toll on the lives of the uninsured. They are sicker and less productive in the workplace. Their children are less likely to survive past infancy. And they must struggle with the knowledge that a serious injury or illness in their family might push them to the brink of financial ruin.

I just recently saw a statistic that women with breast cancer who lack health insurance are 49 percent more likely to die than women who have insurance. Unfortunately, this statistic is just one of countless other statistics about the effects that lack of health insurance has on peoples' health and their lives.

But these personal struggles are not the only affect of America's uninsured problem. Because when the uninsured become so sick that they must finally seek emergency treatment, there is no one to pay for it. No insurance company. No government program.

So who absorbs the cost of this uncompensated medical care? We all do. In the form of higher health care costs. Higher and higher premiums at a time when the cost of health care is already rising out of control.

The situation is becoming critical. And I believe the time for talking has ended. It is time for us to examine solutions instead of talking about the problem.

That is why I have joined with Senator GORDON SMITH to introduce this important piece of legislation. Our bill would lift millions of Americans out of the ranks of the uninsured. It would give millions of families the peace of mind that comes from knowing they will receive the care they need, when they need it. And it would lighten the load of uncompensated care on our over-burdened health care system.

Our bill attacks the problem of the uninsured on several fronts. As you know, the 38 million uninsured Americans are a diverse mix of people. Some work for small employers, who simply can't afford the high cost of health insurance. Others have pre-existing health conditions. These conditions translate into unaffordable, even astronomical, health care insurance premiums.

Some uninsured Americans fall just beyond the eligibility levels for public programs like Medicaid. And many are near-elderly individuals, too young to qualify for Medicare, yet old enough that any health condition at all means expensive premiums or high deductibles. In fact, the fastest growing segment of the uninsured today is the near-elderly population.

Our bill addresses each of these populations.

The first part of our bill would target uninsured Americans who work for small businesses. It would give a tax credit of up to 50 percent to small firms, those with 50 or fewer employees, for the cost of health insurance premiums for their employees. The credit is not limited only to employers who do not currently provide health benefits. It is available to all qualified small employers. The credit will give small employers the extra resources they need to extend, or continue to offer, health benefits to millions of hard-working Americans and their families.

One thing I heard from my constituents traveling around the State, in addition to grief over increasing premiums, is that the health insurance options available to individuals and small employers are limited. If they could pool their resources together, even across State lines, they might be able to reduce their costs as a group.

In response to these concerns, the second part of our bill would provide funding to states, private employer groups, and associations to create purchasing pools. These purchasing pools, or alliances, as we call them in this bill, would provide small employers with affordable health coverage options, which would, accordingly, allow them to take maximum advantage of their tax credits.

For individuals with high cost health conditions, our bill would spend $50 million annually to support state high risk pools. These pools serve a dual purpose. They offer high-risk individuals a place to purchase affordable health coverage. And, by isolating the costs of high-risk individuals, they help lower premiums for those who are not considered high risk or high cost.

Fourth, our bill would also allow states to expand health insurance coverage to the parents of children who are eligible for Medicaid and the Children's Health Insurance Program, or CHIP. This will reach an estimated four million low-income parents who do not currently meet eligibility levels for health insurance coverage under public programs. It will also help us cover even more kids under CHIP, kids who are eligible for coverage but not currently enrolled.

Finally, our bill would allow uninsured Americans between the ages of 62 and 65 to buy into Medicare. Under current law, Americans in this age group are stuck in a bind: not old enough to qualify for Medicare, but unable to afford the high cost of private health insurance options because of their age or health condition. This predicament explains why they represent the fastest-growing group of uninsured. Our bill would offer the near-elderly a more affordable, quality health care package to tide them over until they reach 65.

All told, these efforts would expand access to health insurance coverage to 10 million Americans who are currently uninsured. It's not a panacea. But it's a start.

I commend Senator SMITH for his hard work on this issue. I believe our bipartisan efforts prove that covering the uninsured is not a Democratic issue. It's not a Republican issue. And it's not a Montana or an Oregon issue. It's an American issue.

I hope my colleagues will join this fight by helping us pass this legislation, and taking a solid step towards providing quality, affordable health insurance to all Americans.

Mr. SMITH of Oregon. Mr. President, I would like to thank my colleague from Montana for his leadership on the issue of the uninsured, and rise today in support of the Baucus-Smith Health Insurance Access Act. This bill will go a long way toward mending some of the holes in our nation's health care safety net.

And make no mistake, the safety net is torn. Currently 40 million Americans, that's one in six,—live, work, and go to school among us without health insurance. That means that nationally, 17 percent of Americans do not have any health insurance. They are our friends, our neighbors, our children, our parents.

And the problem is getting worse, not better. In 2001, two million Americans lost their health insurance, that's the largest one year increase in almost a decade.

Many, more than 35 million of these uninsured Americans, are in low-income working families. Many people who work in small businesses are not offered health insurance, and those who are often cannot afford the skyrocketing premiums.

This is particularly true if an individual or a member of their family happen to have some kind of pre-existing or chronic condition that can make a simple policy totally unaffordable. Even relatively healthy Americans find that when they get older, they may be unable to afford health care premiums after they retire, but before they become eligible for Medicare.

Some people say that insurance is irrelevant, that the uninsured can still get good care at public clinics and in emergency rooms. While it is true that public clinics do provide high quality care to millions of Americans, this is not the same as having health insurance with a regular source of care.

Not having a regular source of care leads to needless delays in seeking care. According to a recent report by the Institute of Medicine, an estimated 18,000 people die every year because they don't have health insurance, and don't get the care they need in a timely fashion. Eighteen thousand deaths a year. Millions more people suffer unnecessarily due to delays in care.

Millions of Americans are falling through the cracks in our health care system, and it is our moral obligation to help them get the care they need by providing access to affordable health insurance.

The Health Insurance Access Act of 2002 provides a number of solutions to the growing crisis of the uninsured.

It helps small businesses, which are often unable to offer affordable health insurance to their employees. Under this legislation, small businesses would get a significant tax break to subsidize their purchase of health insurance. The tax break is indexed to the size of a business, so the smallest employers get the most help if they choose to offer their employees health insurance. This is important because smaller businesses are much less likely to offer their employees health coverage.

In order to avoid punishing small employers who are already doing the right thing, our tax credit is available to all qualified small employers, regardless of whether they currently offer health insurance to their employees.

Another problem small businesses face in purchasing health insurance for their employees is finding an affordable policy with real benefits for their employees. By definition, small businesses are too small to provide a stable risk pool. This drives up the cost of premiums.

The Baucus-Smith Health Insurance Access Act of 2002 offers employers some relief to this problem by providing funding for purchasing alliances, which lower premiums by sharing risk. This will provide new, more affordable options for millions of Americans, who have until now had limited health insurance choices.

Our bill also provides grants to states to help fund high risk pools for people who have very limited health insurance options. It seems ironic to me that many of the people who need health insurance most, people with an expensive medical condition—are often unable to obtain insurance.

For many people who have extensive health care needs and medical expenses, obtaining coverage in the individual insurance market is not a viable option. If they can find a policy to cover their illness—often they cannot—they may not be able to afford the premium.

However, in many cases, many of these individuals may not be able to buy health insurance at any cost, because insurers often turn down high risk individuals for coverage because of an existing or previous illness.

High-risk insurance pools attempt to fill this gap in the insurance market. Oregon has had a high risk insurance pool for people who were unable to obtain health insurance because of health conditions for the past 15 years. Since its inception, more than 24,000 Oregonians have bought health care coverage through this high risk insurance pool, 24,000 people who would otherwise have had no health care coverage.

Operating a high risk pool in Oregon has had its costs, costs which are increasing every year. Our legislation will help States assist people who are trying to do the right thing afford health insurance coverage that would otherwise be out of reach.

While much of the policy discussion about the uninsured focuses on children, low income parents are substantially more likely than their children to be uninsured. The Health Insurance Access Act of 2002 would also allow states to offer Medicaid and SCHIP benefits to parents of low income eligible children.

Encouraging States to offer Medicaid or SCHIP coverage to parents will significantly expand access to care for low income parents, and their children, because parents are more likely to enroll their kids in Medicaid or SCHIP when the family is eligible, rather than just certain family members.

Finally, the Health Insurance Access Act of 2002 would address another hole in the insurance market: the near elderly. The near elderly, Americans aged 62–64, often do not have employer sponsored health insurance, because they have retired from the labor force, but are not yet eligible for Medicare.

At the same time, insurance coverage is particularly critical for near-elderly Americans, as the risk of serious illness rises with age, and the prevalence of chronic disease is higher among this population. In addition, because many of the near-elderly have pre-existing conditions, private insurers often deny them coverage or charge unaffordable premiums.

Allowing all Americans aged 62–64 to buy into the Medicare program would create a strong risk pool that would

stabilize premiums, making them affordable to many who would otherwise have been unable to afford coverage. Researchers estimate that almost 40% of eligible Americans 62–64 would buy into Medicare if allowed to do so.

The number of uninsured people in America is an outrage. If 18,000 Americans died in terrorist incidents each year, there would be widespread outrage. Yet, tens of thousands of uninsured Americans are at risk of dying each year from cancers diagnosed too late, or stroke from uncontrolled high blood pressure. These can be slow, painful deaths. They are preventable deaths. We can help prevent these deaths. We should help prevent these deaths.

I urge you to join me and my colleague from Montana to support the Health Insurance Access Act of 2002. This legislation will touch millions of lives by making quality, affordable health insurance accessible to individuals and families who are living at risk.

It is the right thing to do. It is the right time to do it.

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By Mr. BAUCUS:

S. 2680. A bill to direct the Secretary of the Interior to evaluate opportunities to enhance domestic oil and gas production through the exchange of nonproducing Federal oil and gas leases located in the Lewis and Clark National Forest, in the Flathead National Forest and on Bureau of Land Management land in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BAUCUS. Mr. President, I am introducing a bill today that is extremely important to the people of my State of Montana. Why is it so important? Because I hope it will take us one step closer to achieving permanent protections for Montana's magnificent Rocky Mountain Front.

The Front, as we call it back home, is part of one of the largest and most intact wild places left in the lower 48. To the North, the Front includes a 200 square mile area known as the Badger-Two Medicine in the Lewis and Clark National Forest. This area sits just south-east of Glacier National Park, one of our greatest national treasures. The Badger-Two Medicine area is sacred ground to the Blackfeet Tribe. In January of 2002, portions of the Badger-Two, known as the Badger-Two Medicine Blackfoot Traditional Cultural District, were declared eligible for listing in the National Register of Historic Places.

South of the Badger-Two, the Front includes a 400 square mile strip of national forest land and about 20 square miles of BLM lands, including three BLM Outstanding Natural Areas.

Not only the Front still retain almost all its native species, only bison are missing, but it also harbors the country's largest bighorn sheep herd and second largest elk herd. The Rocky Mountain Front supports one of the largest populations of grizzly bears south of Canada and is the only place in the lower 48 States where grizzly bears still roam from the mountains to their historic range on the plains.

Because of this exceptional habitat, the Front offers world renowned hunting, fishing and recreational opportunities. Sportsmen, local land owners, hikers, local communities and many other Montanans have worked for decades to protect and preserve the Front for future generations.

In short, a majority of Montanans feel very strongly that oil and gas development, and Montana's Rocky Mountain Front, just don't mix. The habitat is too rich, the landscape too important, to subject it to the roads, drills, pipelines, industrial equipment, chemicals, noise, and human activity that come with oil and gas development.

Building upon a significant public and private conservation investment and following an extensive public comment process, the Lewis and Clark National Forest decided in 1997 to withdraw for 15 years 356,000 acres in the Front from any new oil and gas leasing. This was a significant first step in protecting the Front from developing that I wholeheartedly supported.

However, in many parts of the Rocky Mountain Front, oil and gas leases exist that pre-date the 1997 decision. These leaseholders have invested time and resources in acquiring their leases. Several leaseholders have applied to the federal government for permits to drill. These leases are the subject of my proposed bill.

History has shown that energy exploration and development in the Front is likely to result in expensive and time consuming environmental studies and litigation. This process rarely ends with a solution that is satisfactory to the oil and gas lessee. For example, in the late 1980's both Chevron and Fina applied for permits to drill in the Badger Two Medicine portion of the Front. After millions of dollars spent on studies and years of public debate, Chevron abandoned or assigned all of its lease rights, and Fina sold its lease rights back to the original owner.

Therefore, I think we should be fair to those leaseholders. We want them to continue to provide for our domestic oil and gas needs, but they are going to have a long, difficult and expensive road if they wish to develop oil and gas in the Rocky Mountain Front.

My legislation would direct the Interior Department to evaluate non-producing leases in the Rocky Mountain Front and look at opportunities to cancel these leases, in exchange for allowing leaseholders to explore for oil and gas somewhere else, namely in the Gulf of Mexico or in the State of Montana. In conducting this evaluation, the Secretary would have to consult with leaseholders, with the State of Montana and the public and other interested parties.

When Interior concludes this study in two years, the bill calls for the agency to make recommendations to Congress and the Energy and Natural Resources Committee on the advisability of pursuing lease exchanges in the Front and any changes in law and regulation needed to enable the Secretary to undertake such an exchange.

Finally, in order to allow the Secretary to conduct this study, my bill would continue the current lease suspension in the Badger-Two Medicine Area for three more years. This lease suspension would only apply to the Badger-Two Medicine Area, not the entire Front.

That's it, that's all my bill does. It doesn't predetermine any outcome, it doesn't impact any existing exploration activities or environmental review processes. It just creates a process through which the federal government, the people of Montana and leaseholders can finally have a real, open and honest discussion about the fate of the Rocky Mountain Front.

We should look for ways to fairly compensate leaseholders for investments they've made in their leases if they decide to leave the Front rather than waste years and millions fighting to explore for uncertain oil and gas reserves. Because, a lot of Montanans don't want to see the Front developed, and they will fight to protect it. Including me.

So, developers can wait years, or decades, or most likely never, for oil and gas to flow from the Front. Or we can look at ways to encourage domestic production much sooner, in much more cost effective, appropriate and efficient ways somewhere else.

That is what I hope this legislation will accomplish, and I hope my colleagues in the Senate will support it.

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By Mr. GRASSLEY:

S.J. Res. 38. A joint resolution providing for the designation of a Medal of Honor Flag and for presentation of that flag recipients of the Medal of Honor; to the Committee on Armed Services.

Mr. GRASSLEY. Mr. President, today I am introducing a resolution to designate a Medal of Honor Flag to further honor those individuals who have gone above and beyond the call of duty in service to their country and to present that flag to each recipient of the Medal of Honor. This idea came from a constituent of mine, retired First Sergeant William Kendall of Jefferson, IA. Mr. Kendall had been thinking about another resident of Jefferson, Captain Darrell Lindsey, who was shot down while on a bombing mission over France during World War II. Captain Lindsey was able to keep his aircraft in the air long enough to allow the members of his crew to escape safely, but this action cost him his life. As a result of this selfless sacrifice, Captain Lindsey was awarded the Medal of Honor.

A Medal of Honor monument commemorating this heroic Iowan now

stands on the courthouse lawn in Jefferson, IA. It was partly this monument and the proud history of his fellow Iowan that inspired Bill Kendall to ponder the heroism of all recipients of the Medal of Honor. He then began to wonder why there was no official flag to honor recipients of the Medal of Honor. The Medal of Honor is the Nation's highest award for bravery he felt that a flag would help to show respect for this award as well as all those who have earned it through their service to the United States of America. I agree.

The Medal of Honor is not given out lightly. To date, only 3,439 individuals have been awarded the Medal of Honor and there are only 143 living recipients of this award. Each of the armed services has very strict regulations for judging whether an individual is entitled to the Medal of Honor. The award is only given for acts of exceptional bravery or self-sacrifice above and beyond what is expected and must involve risk of life. The deed must be proved by incontestable evidence of at least two eyewitnesses.

I should also add that there is an Iowa connection going back to the creation of the Medal of Honor. In 1861, during the Civil War, Iowa Senator James Grimes introduced legislation in the Senate to create a Medal of Honor for the Navy. This first Medal of Honor was followed by similar awards for the other services. It is appropriate that another Iowan, Sergeant William Kendall, should create the first Medal of Honor flag.

It is indeed right and appropriate to honor those Americans to whom we owe so much. Bill Kendall's idea for a Medal of Honor flag is a good one and I am honored to do what I can to help see his vision realized. I am pleased that the House has already acted on a similar measure and I hope my colleagues in the Senate will join me in this important initiative.

I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 38

Whereas the Medal of Honor is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Forces of the United States;

Whereas the Medal of Honor was established by Congress during the Civil War to recognize soldiers who had distinguished themselves by gallantry in action;

Whereas the Medal of Honor was conceived by Senator James Grimes of the State of Iowa in 1861; and

Whereas the Medal of Honor is the Nation's highest military honor, awarded for acts of personal bravery or self-sacrifice above and beyond the call of duty: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF MEDAL OF HONOR FLAG.**

(a) IN GENERAL.—Chapter 9 of title 36, United States Code, is amended by adding at the end the following new section:

**"§ 903. Designation of Medal of Honor Flag**

''(a) DESIGNATION.—The Secretary of Defense shall design and designate a flag as the Medal of Honor Flag. In selecting the design for the flag, the Secretary shall consider designs submitted by the general public.

''(b) PRESENTATION.—The Medal of Honor Flag shall be presented as specified in sections 3755, 6257, and 8755 of title 10 and section 505 of title 14.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''903. Designation of Medal of Honor Flag.''.

**SEC. 2. PRESENTATION OF FLAG TO MEDAL OF HONOR RECIPIENTS.**

(a) ARMY.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 3755. Medal of honor: presentation of Medal of Honor Flag**

''The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 3741 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 3741 or 3752(a) of this title.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''3755. Medal of honor: presentation of Medal of Honor Flag.''.

(b) NAVY AND MARINE CORPS.—(1) Chapter 567 of such title is amended by adding at the end the following new section:

**"§ 6257. Medal of honor: presentation of Medal of Honor Flag**

''The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 6241 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 6241 or 6250 of this title.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''6257. Medal of honor: presentation of Medal of Honor Flag.''.

(c) AIR FORCE.—(1) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 8755. Medal of honor: presentation of Medal of Honor Flag**

''The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 8741 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 8741 or 8752(a) of this title.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''8755. Medal of honor: presentation of Medal of Honor Flag.''.

(d) COAST GUARD.—(1) Chapter 13 of title 14, United States Code, is amended by inserting after section 504 the following new section:

**"§ 505. Medal of honor: presentation of Medal of Honor Flag**

''The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 491 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 491 or 498 of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 504 the following new item:

''505. Medal of honor: presentation of Medal of Honor Flag.''.

(e) PRIOR RECIPIENTS.—The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36, United States Code, as added by section 1(a), to each person awarded the Medal of Honor before the date of the enactment of this joint resolution who is living as of that date. Such presentation shall be made as expeditiously as possible after the date of the designation of the Medal of Honor Flag by the Secretary of Defense under such section.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 291—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION IN UNITED STATES V. MILTON THOMAS BLACK

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

Whereas, in the case of United States v. Milton Thomas Black, Cr. No. S–02–016–PMP, pending in the United States District Court for the District of Nevada, subpoenas for testimony have been issued to Clara Kircher and Phil Toomajian, employees in the office of Senator Patrick J. Leahy; Donald Wilson, an employee in the office of Senator Harry Reid; and Katharine Dillingham and Craig Spilsbury, employees in the office of Senator Orrin G. Hatch;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved* That Clara Kircher, Phil Toomajian, Donald Wilson, Katharine Dillingham, Craig Spilsbury, and any other employee of the Senate from whom testimony or document production is required, are authorized to testify and produce documents in the case of United States v. Milton Thomas Black, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal counsel is authorized to represent employees of the Senate in connection with the testimony and document production authorized in section one of this resolution.

## SENATE CONCURRENT RESOLUTION 123—EXPRESSING THE SENSE OF CONGRESS THAT THE FUTURE OF TAIWAN SHOULD BE RESOLVED PEACEFULLY, THROUGH A DEMOCRATIC MECHANISM, WITH THE EXPRESS CONSENT OF THE PEOPLE OF TAIWAN AND FREE FROM OUTSIDE THREATS, INTIMIDATION, OR INTERFERENCE

Mr. TORRICELLI submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 123

Whereas in the San Francisco Peace Treaty signed on September 8, 1951 (3 U. S. T. 3169) (in this resolution referred to as the ''treaty''), Japan renounced all right, title, and claim to Taiwan;

Whereas the signatories of the treaty left the status of Taiwan undetermined;

Whereas the universally accepted principle of self-determination is enshrined in Article 1 of the United Nations Charter;

Whereas the United States is a signatory of the United Nations Charter;

Whereas the United States recognizes and supports that the right to self-determination exists as a fundamental right of all peoples, as set forth in numerous United Nations instruments;

Whereas the people of Taiwan are committed to the principles of freedom, justice, and democracy as evidenced by the March 18, 2000, election of Mr. Chen Shui-bian as Taiwan's President;

Whereas the 1993 Montevideo Convention on Rights and Duties of States defines the qualifications of a nation-state as a defined territory, a permanent population, and a government capable of entering into relations with other states;

Whereas on February 24, 2000, and March 8, 2000, President Clinton stated: ''We will ... continue to make absolutely clear that the issues between Beijing and Taiwan must be resolved peacefully and with the assent of the people of Taiwan'';

Whereas both the 2000 Republican party platform and the Democratic party platform emphasized and made clear the belief that the future of Taiwan should be determined with the consent of the people of Taiwan; and

Whereas Deputy Secretary of State Richard Armitage said in a Senate Foreign Relations Committee hearing on March 16, 2001, that ''what has changed is that any eventual agreement that is arrived at has to be acceptable to the majority of the people on Taiwan'': Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that—

(1) the future of Taiwan should be resolved peacefully, through a democratic mechanism such as a plebiscite and with the express consent of the people of Taiwan; and

(2) the future of Taiwan must be decided by the people of Taiwan without outside threats, intimidation, or interference.

## AMENDMENTS SUBMITTED—JUNE 24, 2002

**SA 3970.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

### TITLE XIII—COAST GUARD AUTHORIZATION

**SEC. 1301. SHORT TITLE.**

This title may be cited as the ''Coast Guard Authorization Act of 2002''.

**SEC. 1302. TABLE OF CONTENTS.**

The table of contents for this title is as follows:



### SUBTITLE A—AUTHORIZATION

**SEC. 1311. AUTHORIZATION OF APPROPRIATIONS.**

(a) FISCAL YEAR 2002.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2002, as follows:

(1) For the operation and maintenance of the Coast Guard, $4,533,000,000, of which—

(A) $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund; and

(B) $537,000,000 is authorized for activities associated with improving maritime security, including maritime domain awareness and law enforcement operations.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $985,000,000 of which—

(A) $20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990;

(B) $50,000,000 is authorized to be available for equipment and facilities associated with improving maritime security awareness, crisis prevention, and response; and

(C) $338,000,000 is authorized to be available to implement the Coast Guard's Integrated Deepwater system.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,000,000, to remain available until expended, of which $3,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed

appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $876,350,000, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $17,000,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) $13,500,000, to remain available until expended; and

(B) $2,000,000, to remain available until expended, which may be utilized for construction of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

(b) FISCAL YEAR 2003.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2003, as follows:

(1) For the operation and maintenance of the Coast Guard, $4,800,000,000, of which—

(A) $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund; and

(B) $537,000,000 is authorized for activities associated with improving maritime security, including maritime domain awareness and law enforcement operations.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,000,000,000 of which—

(A) $20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990;

(B) $50,000,000 is authorized to be available for equipment and facilities associated with improving maritime security awareness, crisis prevention, and response; and

(C) $500,000,000 is authorized to be available to implement the Coast Guard's Integrated Deepwater system.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $23,106,000, to remain available until expended, of which $3,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $935,000,000, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $17,300,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program administrative costs associated with the Bridge Alteration Program—

(A) $16,000,000, to remain available until expended; and

(B) $2,000,000, to remain available until expended, which may be utilized for construction of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

**SEC. 1312. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.**

(a) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2002.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 45,500 as of September 30, 2002.

(b) TRAINING STUDENT LOADS FOR FISCAL YEAR 2002.—For fiscal year 2002,the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,500 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,050 student years.

(c) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2003.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 45,500 as of September 30, 2003.

(d) TRAINING STUDENT LOADS FOR FISCAL YEAR 2003.—For fiscal year 2003, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,250 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,150 student years.

**SEC. 1313. LORAN–C.**

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN–C system, for capital expenses related to LORAN–C navigation infrastructure, $22,000,000 for fiscal year 2002. The Secretary of transportation may transfer from the Federal Aviation Administration and other agencies of the department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

**SEC. 1314. PATROL CRAFT.**

(a) TRANSFER OF CRAFT FROM DOD.—Notwithstanding any other provision of law, the Secretary of Transportation may accept, by direct transfer without cost, for use by the Coast Guard primarily for expanded drug interdiction activities required to meet national supply reduction performance goals, up to 7 PC–170 patrol craft from the Department of Defense if it offers to transfer such craft.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Coast Guard, in addition to amounts otherwise authorized by this Act, up to $100,000,000, to remain available until expended, for the conversion of, operation and maintenance of, personnel to operate and support, and shoreside infrastructure requirements for, up to 7 patrol craft.

**SEC. 1315. CARIBBEAN SUPPORT TENDER.**

(a) IN GENERAL.—The Coast Guard is authorized to operate and maintain a Caribbean Support Tender (or similar type vessel) to provide technical assistance, including law enforcement training, for foreign coast guards, navies, and other maritime services.

(b) MEDICAL AND DENTAL CARE.—

(1) The Commandant may provide medical and dental care to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States—

(A) on an outpatient basis without cost; and

(B) on an inpatient basis if the United States is reimbursed for the costs of providing such care. Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which the charges were made for the provision of such care.

(2) Notwithstanding paragraph (1)(B), the Commandant may provide inpatient medical and dental care in the United States without cost to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States if comparable care is made available to a comparable number of United States military personnel in that foreign country.

## SUBTITLE B—PERSONNEL MANAGEMENT

**SEC. 1321. COAST GUARD BAND DIRECTOR RANK.**

Section 336(d) of title 14, United States Code, is amended by striking ''commander'' and inserting ''captain''.

**SEC. 1322. COMPENSATORY ABSENCE FOR ISOLATED DUTY.**

(a) IN GENERAL.—Section 511 of title 14, United States Code, is amended to read as follows:

**''§ 511. Compensatory absence from duty for military personnel at isolated duty stations**

''The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 13 of title 14, United States Code, is amended by striking the item relating to section 511 and inserting the following: ''511. Compensatory absence from duty for military personnel at isolated duty stations.''.

**SEC. 1323. SUSPENSION OF RETIRED PAY OF COAST GUARD MEMBERS WHO ARE ABSENT FROM THE UNITED STATES TO AVOID PROSECUTION.**

Section 633 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) is amended by redesignating subsections (b), (c), and (d) in order as subsections (c), (d), and (e), and by inserting after subsection (a) the following:

''(b) APPLICATION TO COAST GUARD.—Procedures promulgated by the Secretary of Defense under subsection (a) shall apply to the Coast Guard. The Commandant of the Coast Guard shall be considered a Secretary of a military department for purposes of suspending pay under this section.''.

**SEC. 1324. EXTENSION OF COAST GUARD HOUSING AUTHORITIES.**

(a) IN GENERAL.—Section 689 of title 14, United States Code, is amended by striking ''2001.'' and inserting ''2006.''.

(b) HOUSING DEMONSTRATION PROJECT.—Section 687 of title 14, United States Code, is amended by adding at the end the following:

''(g) DEMONSTRATION PROJECT AUTHORIZED.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

''(1) may develop and implement a demonstration project for acquisition or construction of military family housing and military unaccompanied housing at the Coast Guard installation at Kodiak, Alaska;

''(2) in implementing the demonstration project shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's Section 8(a) Program;

''(3) shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and

''(4) shall report to Congress by September 1st of each year on the progress of activities under the demonstration project.''.

**SEC. 1325. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.**

Title 14, United States Code, is amended—

(1) by adding at the end of section 259 the following:

''(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

''(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date the Secretary publishes a finding that implementation of this subsection will improve Coast Guard officer retention and management.

''(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.'';

(2) by inserting ''and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title'' in section 260(a) after ''promotion''; and

(3) by inserting at the end of section 271(a) the following: ''The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.''.

**SEC. 1326. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION ON FAILURE OF SELECTION FOR PROMOTION.**

Section 285 of title 14, United States Code, is amended—

(1) by striking ''Each officer'' and inserting ''(a) Each officer''; and

(2) by adding at the end the following new subsections:

''(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

''(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period which extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period which extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

''(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b), is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.''

**SEC. 1327. RESERVE OFFICER PROMOTIONS.**

(a) Section 729(i) of title 14, United States Code is amended by inserting ''on the date a vacancy occurs, or as soon thereafter as practicable, in the grade to which the officer was selected for promotion, or if promotion was determined in accordance with a running mate system,'' after ''grade''.

(b) Section 731 of title 14, United States Coast Code, is amended by striking the period at the end of the sentence in section 731, and inserting '', or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he completes the following amount of service computed from his date of rank in the grade in which he is serving:

''(1) 2 years in the grade of lieutenant (junior grade).

''(2) 3 years in the grade of lieutenant.

''(3) 4 years in the grade of lieutenant commander.

''(4) 4 years in the grade of commander.

''(5) 3 years in the grade of captain.''.

(c) Section 736(a) of title 14, United States Code, is amended by inserting ''the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event'' after ''subchapter,'' in the first sentence.

**SEC. 1328. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM.**

(a) IN GENERAL.—Chapter 21 of title 14, United States Code, is amended by inserting after section 709 the following new section:

**''§ 709a. Reserve student pre-commissioning assistance program**

''(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

''(1) a baccalaureate degree in not more than 5 academic years; or

''(2) a post-baccalaureate degree.

''(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve shall—

''(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

''(B) enter into a written agreement with the Coast Guard described in paragraph (2).

''(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

''(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

''(B) to serve on active duty for up to five years; and

''(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

''(c) Expenses for which financial assistance may be provided under this section are the following:

''(1) Tuition and fees charged by the institution of higher education involved.

''(2) The cost of books.

''(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

''(4) Such other expenses as are deemed appropriate by the Secretary.

''(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed $25,000 for any academic year.

''(e) Financial assistance may be provided to a member under this section for up to 5 consecutive academic years.

''(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than 4 years, if the member—

''(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

''(2) fails to complete the academic requirements of the institution of higher education involved; or

''(3) fails to maintain eligibility for an original appointment as a commissioned officer.

''(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The Secretary may request the member to reimburse the United States in an amount that bears the same ratio to the total costs of the education provided to that member as the unserved portion of active duty bears to the total period of active duty the member agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed under this paragraph is a debt owed to the United States.

''(2) The Secretary may waive the service obligated under subsection (f) of a member who becomes unqualified to serve on active duty due to a circumstance not within the control of that member or who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

''(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

''(h) As used in this section, the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 21 of title 14, United States Code, is amended by adding the following new item after the item relating to

section 709: ''709A. Reserve student pre-commissioning assistance program''.

**SEC. 1329. CONTINUATION ON ACTIVE DUTY BEYOND 30 YEARS.**

Section 289 of title 14, United States Code, is amended by adding at the end the following:

''(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.''.

**SEC. 1330. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS.**

(a) Section 823a(b) of title 14, United States Code, is amended by inserting the following new paragraph following paragraph (8):

''(9) On or after January 1, 2001, the first section 651 contained in the Omnibus Consolidated Appropriations Act, 1997 (110 Stat. 3009-368).''.

**SEC. 1331. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY.**

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended—

(1) in section 281—

(A) by striking ''three'' in the section heading and inserting ''five''; and

(B) by striking ''three'' in the text and inserting ''five'';

(2) in section 283(b)(2)(A), by striking ''severance'' and inserting ''separation'';

(3) in section 286—

(A) by striking ''severance'' in the section heading and inserting ''separation''; and

(B) by striking subsection (b) and inserting the following:

''(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

''(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title, who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

''(d) Notwithstanding subsections (a) or (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.'';

(4) in section 286a—

(A) by striking ''severance'' in the section heading and inserting ''separation'' in its place; and

(B) by striking subsections (a), (b), and (c) and inserting the following:

''(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

''(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

''(c) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.''; and

(5) in section 327—

(A) by striking ''severance'' in the section heading and inserting ''separation'';

(B) by striking subsection (a)(2) and inserting in its place the following:

''(2) for discharge with separation benefits under section 286(c) of this title.'';

(C) by striking subsection (a)(3);

(D) by striking subsection (b)(2) and inserting in its place the following:

''(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.''; and

(E) by striking subsection (b)(3).

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended—

(1) in the item relating to section 281, by striking ''three'' and inserting ''five'' in its place; and

(2) in the item relating to section 286, by striking ''severance'' and inserting ''separation'' in its place;

(3) in the item relating to section 286a, by striking ''severance'' and inserting ''separation'' in its place; and

(4) in the item relating to section 327, by striking ''severance'' and inserting ''separation'' in its place.

(c) EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) shall take effect four years after the date of enactment of this Act, except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section shall take effect on enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) of this section shall take effect four years after the date of enactment of this Act.

## SUBTITLE C—MARINE SAFETY

**SEC. 1351. MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM.**

(a) REPORT.— The Secretary of Transportation shall prepare a status report on the modernization of the National Distress and Response System and transmit the report, not later than 60 days after the date of enactment of this Act, and annually thereafter until completion of the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) CONTENTS.— The report required by subsection (a) shall—

(1) set forth the scope of the modernization, the schedule for completion of the System, and provide information on progress in meeting the schedule and on any anticipated delays;

(2) specify the funding expended to-date on the System, the funding required to complete the system, and the purposes for which the funds were or will be expended;

(3) describe and map the existing public and private communications coverage throughout the waters of the coastal and internal regions of the continental United States, Alaska, Hawaii, Guam, and the Caribbean, and identify locations that possess direction-finding, asset-tracking communications, and digital selective calling service;

(4) identify areas of high risk to boaters and Coast Guard personnel due to communications gaps;

(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording systems, asset-tracking communications, use of commercial VHF services, and digital selective calling services that meet or exceed Global Maritime Distress and Safety System requirements adopted under the International Convention for the Safety of Life at Sea;

(6) identify the number of VHF–FM radios equipped with digital selective calling sold to United States boaters;

(7) list all reported marine accidents, casualties, and fatalities occurring in areas with existing communications gaps or failures, including incidents associated with gaps in VHF–FM coverage or digital selective calling capabilities and failures associated with inadequate communications equipment aboard the involved vessels during calendar years 1997 forward;

(8) identify existing systems available to close all identified marine safety gaps before January 1, 2003, including expeditious receipt and response by appropriate Coast Guard operations centers to VHF–FM digital selective calling distress signal; and

(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR–99–01.

**SEC. 1352. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.**

Section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)), is amended by striking ''United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended.'' and inserting ''United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

**SEC. 1353. ICEBREAKING SERVICES.**

The Commandant of the Coast Guard shall not plan, implement or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs unless and until the Commandant certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House, that sufficient replacement assets have been procured by the Coast Guard to remediate any degradation in current icebreaking services that would be caused by such decommissioning.

**SEC. 1354. MODIFICATION OF VARIOUS REPORTING REQUIREMENTS.**

PRESERVATION OF CERTAIN REPORTING REQUIREMENTS.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

(1) COAST GUARD OPERATIONS AND EXPENDITURES.—Section 651 of title 14, United States Code.

(2) SUMMARY OF MARINE CASUALTIES REPORTED DURING PRIOR FISCAL YEAR.—Section 6307(c) of title 46, United States Code.

(3) USER FEE ACTIVITIES AND AMOUNTS.—Section 664 of title 46, United States Code.

(4) CONDITIONS OF PUBLIC PORTS OF THE UNITED STATES.—Section 308(c) of title 49, United States Code.

(5) ACTIVITIES OF FEDERAL MARITIME COMMISSION.—Section 208 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1118).

(6) ACTIVITIES OF INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—Section 7001(e) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(e)).

**SEC. 1355. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND ADVANCEMENT AUTHORITY.**

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended after the first sentence by inserting ''To the extent that such amount is not adequate for removal of a discharge or the mitigation or prevention of a substantial threat of a discharge, the Coast Guard may obtain an advance from the Fund such sums as may be necessary, up to a maximum of $100,000,000, and within 30 days shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance. Amounts advanced shall be repaid to the Fund when, and to the extent that removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.''.

**SEC. 1356. MERCHANT MARINER DOCUMENTATION REQUIREMENTS.**

(a) INTERIM MERCHANT MARINERS' DOCUMENTS.—Section 7302 of title 46, United States Code, is amended—

(1) by striking ''A'' in subsection (f) and inserting ''Except as provided in subsection (g), a''; and

(2) by adding at the end the following:

''(g)(1) The Secretary may, pending receipt and review of information required under subsections (c) and (d), immediately issue an interim merchant mariner's document valid for a period not to exceed 120 days, to—

''(A) an individual to be employed as gaming personnel, entertainment personnel, wait staff, or other service personnel on board a passenger vessel not engaged in foreign service, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; or

''(B) an individual seeking renewal of, or qualifying for a supplemental endorsement to, a valid merchant mariner's document issued under this section.

''(2) No more than one interim document may be issued to an individual under paragraph (1)(A) of this subsection.''.

(b) EXCEPTION.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon in paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

''(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a period of not more than 30 service days within a 12 month period as entertainment personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; and''.

**SEC. 1357. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION.**

Section 2302(a) of title 46, United States Code, is amended by striking ''$1,000.'' and inserting ''$5,000 in the case of a recreational vessel, or $25,000 in the case of any other vessel.''.

**SEC. 1358. FISHING VESSEL SAFETY TRAINING.**

(a) IN GENERAL.—The Commandant of the Coast Guard may provide support, with or without reimbursement, to an entity engaged in fishing vessel safety training including—

(1) assistance in developing training curricula;

(2) use of Coast Guard personnel, including active duty members, members of the Coast Guard Reserve, and members of the Coast Guard Auxiliary, as temporary or adjunct instructors;

(3) sharing of appropriate Coast Guard informational and safety publications; and

(4) participation on applicable fishing vessel safety training advisory panels.

(b) No Interference with Other Functions.—In providing support under subsection (a), the Commandant shall ensure that the support does not interfere with any Coast Guard function or operation.

**SEC. 1359. EXTEND TIME FOR RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT RECALLS.**

Section 4310(c) of title 46, United Sates Code, is amended—

(1) by striking ''5'' wherever it appears and inserting ''10'' in its place in paragraph (2)(A) and (B).

(2) by inserting ''by first class mail or'' in front of ''by certified mail'' in paragraph (1)(A),(B), and (C).

**SEC. 1360. SAFETY EQUIPMENT REQUIREMENT.**

The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including survival suits where appropriate, while performing search and rescue missions.

**SEC. 1361. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS.**

Section 6101 of title 46, United States Code, is amended—

(1) by redesignating the second subsection (e) as subsection (f); and

(2) by adding at the end the following new subsection:

''(g) To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.''.

**SEC. 1362. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.**

(a) Section 3 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903) is amended—

(1) in subsection (c)(1)(D) by striking ''and'';

(2) in subsection (c)(1)(E) by striking ''United States.'' and inserting ''United States; and''; and

(3) by inserting after subsection (c)(1)(E) the following:

''(F) a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in 19 U.S.C. 1401(k).''.

(b) Section 4 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1904) is amended—

(1) by inserting ''(a)'' before ''Any property''; and

(2) by adding at the end the following:

''(b) Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under this chapter, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, inter alia, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this chapter:

''(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

''(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

''(B) the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

''(C) the presence of an auxiliary tank not installed in accordance with applicable law, or installed in such a manner as to enhance the vessel's smuggling capability;

''(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

''(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

''(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

''(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

''(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

''(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

''(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation, and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

''(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

''(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage, or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

''(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity.

''(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

''(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.''.

**SEC. 1363. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.**

(a) Section 12103(a) of title 46, United States Code, is amended by inserting '', or a temporary certificate of documentation,'' after ''certificate of documentation''.

(b)(1) Chapter 121 of title 46, United States Code, is amended by adding a new section 12103a, as follows:

**''§ 12103a. Issuance of temporary certificate of documentation by third parties**

''(a) The Secretary of Transportation may delegate, subject to the supervision and control of the Secretary and under terms set out

by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel, if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.

''(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.''.

(2) The table of sections at the beginning of chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12103 the following:

''12103a. Issuance of temporary certificate of documentation by third parties.''.

## SUBTITLE D—RENEWAL OF ADVISORY GROUPS

### SEC. 1371. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

(a) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Section 4508 of title 46, United States Code, is amended—

(1) by inserting '' Safety '' in the heading after '' Vessel '';

(2) by inserting ''Safety'' in subsection (a) after ''Vessel'';

(3) by striking ''(5 U.S.C App. 1 et seq.)'' in subsection (e)(1) and inserting ''(5 U.S.C. App.)''; and

(4) by striking ''September 30, 2000'' and inserting ''September 30, 2005''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4508 and inserting the following:

''4508. Commercial Fishing Industry Vessel Safety Advisory Committee.''.

### SEC. 1372. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

Section 18(h) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking ''September 30, 2000.'' and inserting ''September 30, 2005.''.

### SEC. 1373. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

Section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking ''September 30, 2000'' in subsection (g) and inserting ''September 30, 2005''.

### SEC. 1374. NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking ''September 30, 2000'' in subsection (d) and inserting ''September 30, 2005''.

### SEC. 1375. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110 of title 46, United States Code, is amended by striking ''September 30, 2000'' in subsection (e) and inserting ''September 30, 2005''.

### SEC. 1376. TOWING SAFETY ADVISORY COMMITTEE.

The Act entitled ''An Act to Establish a Towing Safety Advisory Committee in the Department of Transportation'' (33 U.S.C. 1231a) is amended by striking ''September 30, 2000.'' in subsection (e) and inserting''September 30, 2005.''.

## SUBTITLE E—MISCELLANEOUS

### SEC. 1381. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Administrator of General Services may convey to the Gulf of Maine Aquarium Development Corporation, its successors and assigns, without payment for consideration, all right, title, and interest of the United States in and to approximately 4.13 acres of land, including a pier and bulkhead, known as the Naval Reserve Pier property, together with any improvements thereon in their then current condition, located in Portland, Maine. All conditions placed with the deed of title shall be construed as covenants running with the land.

(2) IDENTIFICATION OF PROPERTY.—The Administrator, in consultation with the Commandant of the Coast Guard, may identify, describe, and determine the property to be conveyed under this section. The floating docks associated with or attached to the Naval Reserve Pier property shall remain the personal property of the United States.

(b) LEASE TO THE UNITED STATES.—

(1) CONDITION OF CONVEYANCE.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into a lease agreement with the United States, the terms of which are mutually satisfactory to the Commandant and the Corporation, in which the Corporation shall lease a portion of the Naval Reserve Pier property to the United States for a term of 30 years without payment of consideration. The lease agreement shall be executed within 12 months after the date of enactment of this Act.

(2) IDENTIFICATION OF LEASED PREMISES.—The Administrator, in consultation with the Commandant, may identify and describe the leased premises and rights of access, including the following, in order to allow the Coast Guard to operate and perform missions from and upon the leased premises:

(A) The right of ingress and egress over the Naval Reserve Pier property, including the pier and bulkhead, at any time, without notice, for purposes of access to Coast Guard vessels and performance of Coast Guard missions and other mission-related activities.

(B) The right to berth Coast Guard cutters or other vessels as required, in the moorings along the east side of the Naval Reserve Pier property, and the right to attach floating docks which shall be owned and maintained at the United States' sole cost and expense.

(C) The right to operate, maintain, remove, relocate, or replace an aid to navigation located upon, or to install any aid to navigation upon, the Naval Reserve Pier property as the Coast Guard, in its sole discretion, may determine is needed for navigational purposes.

(D) The right to occupy up to 3,000 contiguous gross square feet at the Naval Reserve Pier property for storage and office space, which will be provided and constructed by the Corporation, at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(E) The right to occupy up to 1,200 contiguous gross square feet of offsite storage in a location other than the Naval Reserve Pier property, which will be provided by the Corporation at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(F) The right for Coast Guard personnel to park up to 60 vehicles, at no expense to the government, in the Corporation's parking spaces on the Naval Reserve Pier property or in parking spaces that the Corporation may secure within 1,000 feet of the Naval Reserve Pier property or within 1,000 feet of the Coast Guard Marine Safety Office Portland. Spaces for no less than 30 vehicles shall be located on the Naval Reserve Pier property.

(3) RENEWAL.—The lease described in paragraph (1) may be renewed, at the sole option of the United States, for additional lease terms.

(4) LIMITATION ON SUBLEASES.—The United States may not sublease the leased premises to a third party or use the leased premises for purposes other than fulfilling the missions of the Coast Guard and for other mission related activities.

(5) TERMINATION.—In the event that the Coast Guard ceases to use the leased premises, the Administrator, in consultation with the Commandant, may terminate the lease with the Corporation.

(c) IMPROVEMENT OF LEASED PREMISES.—

(1) IN GENERAL.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States, subject to the Commandant's design specifications, project's schedule, and final project approval, to replace the bulkhead and pier which connects to, and provides access from, the bulkhead to the floating docks, at the Corporation's sole cost and expense, on the east side of the Naval Reserve Pier property within 30 months from the date of conveyance. The agreement to improve the leased premises shall be executed within 12 months after the date of enactment of this Act.

(2) FURTHER IMPROVEMENTS.—In addition to the improvements described in paragraph (1), the Commandant is authorized to further improve the leased premises during the lease term, at the United States' sole cost and expense.

(d) UTILITY INSTALLATION AND MAINTENANCE OBLIGATIONS.—

(1) UTILITIES.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to allow the United States to operate and maintain existing utility lines and related equipment, at the United States' sole cost and expense. At such time as the Corporation constructs its proposed public aquarium, the Corporation shall replace existing utility lines and related equipment and provide additional utility lines and equipment capable of supporting a third 110-foot Coast Guard cutter, with comparable, new, code compliant utility lines and equipment at the Corporation's sole cost and expense, maintain such utility lines and related equipment from an agreed upon demarcation point, and make such utility lines and equipment available for use by the United States, provided that the United States pays for its use of utilities at its sole cost and expense. The agreement concerning the operation and maintenance of utility lines and equipment shall be executed within 12 months after the date of enactment of this Act.

(2) MAINTENANCE.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to maintain, at the Corporation's sole cost and expense, the replacement bulkhead and pier on the east side of the Naval Reserve Pier property. The agreement concerning the maintenance of the bulkhead and pier shall be executed within 12 months after the date of enactment of this Act.

(3) AIDS TO NAVIGATION.—The United States shall be required to maintain, at its sole cost and expense, any Coast Guard active aid to navigation located upon the Naval Reserve Pier property.

(e) ADDITIONAL RIGHTS.—The conveyance of the Naval Reserve Pier property shall be made subject to conditions the Administrator or the Commandant consider necessary to ensure that—

(1) THE CORPORATION SHALL NOT INTERFERE OR ALLOW INTERFERENCE, IN ANY MANNER, WITH USE OF THE LEASED PREMISES BY THE UNITED STATES; AND

(2) the Corporation shall not interfere or allow interference, in any manner, with any aid to navigation nor hinder activities required for the operation and maintenance of any aid to navigation, without the express written permission of the head of the agency

responsible for operating and maintaining the aid to navigation.

(f) REMEDIES AND REVERSIONARY INTEREST.—The Naval Reserve Pier property, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if, and only if, the Corporation fails to abide by any of the terms of this section or any agreement entered into under subsection (b), (c), or (d) of this section.

(g) LIABILITY OF THE PARTIES.—The liability of the United States and the Corporation for any injury, death, or damage to or loss of property occurring on the leased property shall be determined with reference to existing State or Federal law, as appropriate, and any such liability may not be modified or enlarged by this title or any agreement of the parties.

(h) EXPIRATION OF AUTHORITY TO CONVEY.—The authority to convey the Naval Reserve property under this section shall expire 3 years after the date of enactment of this Act.

(i) DEFINITIONS.—In this section:

(1) AID TO NAVIGATION.—The term ''aid to navigation'' means equipment used for navigational purposes, including but not limited to, a light, antenna, sound signal, electronic navigation equipment, cameras, sensors power source, or other related equipment which are operated or maintained by the United States.

(2) CORPORATION.—The term ''Corporation'' means the Gulf of Maine Aquarium Development Corporation, its successors and assigns.

**SEC. 1382. HARBOR SAFETY COMMITTEES.**

(a) STUDY.—The Coast Guard shall study existing harbor safety committees in the United States to identify—

(1) strategies for gaining successful cooperation among the various groups having an interest in the local port or waterway;

(2) organizational models that can be applied to new or existing harbor safety committees or to prototype harbor safety committees established under subsection (b);

(3) technological assistance that will help harbor safety committees overcome local impediments to safety, mobility, environmental protection, and port security; and

(4) recurring resources necessary to ensure the success of harbor safety committees.

(b) PROTOTYPE COMMITTEES.—The Coast Guard shall test the feasibility of expanding the harbor safety committee concept to small and medium-sized ports that are not generally served by a harbor safety committee by establishing 1 or more prototype harbor safety committees. In selecting a location or locations for the establishment of a prototype harbor safety committee, the Coast Guard shall—

(1) consider the results of the study conducted under subsection (a);

(2) consider identified safety issues for a particular port;

(3) compare the potential benefits of establishing such a committee with the burdens the establishment of such a committee would impose on participating agencies and organizations;

(4) consider the anticipated level of support from interested parties; and

(5) take into account such other factors as may be appropriate.

(c) Effect on Existing Programs and State Law.—Nothing in this section—

(1) limits the scope or activities of harbor safety committees in existence on the date of enactment of this Act;

(2) precludes the establishment of new harbor safety committees in locations not selected for the establishment of a prototype committee under subsection (b); or

(3) preempts State law.

(d) NONAPPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to harbor safety committees established under this section or any other provision of law.

(e) HARBOR SAFETY COMMITTEE DEFINED.—In this section, the term ''harbor safety committee'' means a local coordinating body—

(1) whose responsibilities include recommending actions to improve the safety, mobility, environmental protection, and port security of a port or waterway; and

(2) the membership of which includes representatives of government agencies, maritime labor, maritime industry companies and organizations, environmental groups, and public interest groups.

**SEC. 1383. LIMITATION OF LIABILITY OF PILOTS AT COAST GUARD VESSEL TRAFFIC SERVICES.**

(a) IN GENERAL.—Chapter 23 of title 46, United States Code, is amended by adding at the end the following:

**''§ 2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots**

''Any pilot, acting in the course and scope of his duties while at a United States Coast Guard Vessel Traffic Service, who provides information, advice or communication assistance shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 23 of title 46, United States Code, is amended by adding at the end the following:

''2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots''.

**SEC. 1384. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE.**

(a) LAWS CODIFIED IN TITLE 14, UNITED STATES CODE.—

(1) Section 194(b)(2) of title 14, United States Code, is amended by striking ''Merchant Marine and Fisheries'' and inserting ''Transportation and Infrastructure''.

(2) Section 663 of title 14, United States Code, is amended by striking ''Merchant Marine and Fisheries'' and inserting ''Transportation and Infrastructure''.

(3) Section 664 of title 14, United States Code, is amended by striking ''Merchant Marine and Fisheries'' and inserting ''Transportation and Infrastructure''.

(b) Laws Codified in Title 33, United States Code.—

(1) Section 3(d)(3) of the International Navigational Rules Act of 1977 (33 U.S.C. 1602(d)(3)) is amended by striking ''Merchant Marine and Fisheries,'' and inserting ''Transportation and Infrastructure,''.

(2) Section 5004(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2734(2)) is amended by striking ''Merchant Marine and Fisheries'' and inserting Transportation and Infrastructure''.

(c) Laws Codified in Title 46, United States Code.—

(1) Section 6307 of title 46, United States Code, is amended by striking ''Merchant Marine and Fisheries'' and inserting ''Transportation and Infrastructure''.

(2) Section 901g(b)(3) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241k(b)(3)) is amended by striking ''Merchant Marine and Fisheries'' and inserting ''Transportation and Infrastructure''.

(3) Section 913(b) of the International Maritime and Port Security Act (46 U.S.C. App. 1809(b)) is amended by striking ''Merchant Marine and Fisheries'' and inserting ''Transportation and Infrastructure''.

**SEC. 1385. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY.**

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end a new section 672b to read as follows:

**''§ 672b. Long-term lease authority for lighthouse property**

''(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including, but not limited to, the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

''(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 672 the following:

''672b. Long-term lease authority for lighthouse property.''.

**SEC. 1386. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS.**

Section 31321(a)(4) of title 46, United States Code, is amended—

(1) by striking ''(A)''; and

(2) by striking subparagraph (B).

**SEC. 1387. RADIO DIRECTION FINDING APPARATUS CARRIAGE REQUIREMENT.**

The first sentence of section 365 of the Communications Act of 1934 (47 U.S.C. 363) is amended by striking ''operators.'' and inserting ''operators, or with radio direction-finding apparatus.''.

**SEC. 1388. WING-IN-GROUND CRAFT.**

(a) Section 2101(35) of title 46, United States Code, is amended by inserting ''a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and'' after the phrase '' 'small passenger vessel' means''.

(b) Section 2101 of title 46, United States Code, is amended by adding at the end the following:

''(48) wing-in-ground craft means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water's surface.''.

**SEC. 1389. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS' DOCUMENTS.**

Section 7303 of title 46, United States Code, is amended by striking ''the thumbprint,''.

**SEC. 1390. AUTHORIZATION OF PAYMENT.**

(a) IN GENERAL.—The Secretary of the Treasury shall pay the sum of $71,000, out of funds in the Treasury not otherwise appropriated, to the State of Hawaii, such sum being the damages arising out of the June 19, 1997, allision by the United States Coast Guard Cutter RUSH with the ferry pier at Barber's Point Harbor, Hawaii.

(b) FULL SETTLEMENT.—The payment made under subsection (a) is in full settlement of all claims by the State of Hawaii against the United States arising from the June 19, 1997, allision.

**SEC. 1391. ADDITIONAL COAST GUARD FUNDING NEEDS AFTER SEPTEMBER 11, 2001.**

(a) IN GENERAL.—No later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Director of the Office of Homeland Security shall submit a report to the Congress that—

(1) compares Coast Guard expenditures by mission area on an annualized basis before

and after the terrorist attacks of September 11, 2001;

(2) estimates—

(A) annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001;

(B) annual funding amounts and personnel levels required to fulfill the Coast Guard's additional responsibilities for port security after September 11, 2001; and

(C) annual funding amounts and personnel levels required to increase law enforcement needs in mission areas other than port security after September 11, 2001;

(3) generally describes the services provided by the Coast Guard to the Department of Defense after September 11, 2001, and states the cost of such services; and

(4) identifies the Federal agency providing funds for those services.

(b) REPORT REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Commandant shall submit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation identifying mission targets for each Coast Guard mission for fiscal years 2003, 2004, and 2005 and the specific steps necessary to achieve those targets. The Inspector General shall review the final strategic plan, and provide an independent report with its views to the Committees within 90 days after the plan has been submitted by the Secretary.

**SEC. 1392. REPEAL OF SPECIAL AUTHORITY TO REVOKE ENDORSEMENTS.**

Section 503 of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note) is repealed.

**SEC. 1393. PREARRIVAL MESSAGES FROM VESSELS DESTINED TO UNITED STATES PORTS.**

(a) PREARRIVAL MESSAGE REQUIREMENTS.—Section 4 of the Ports and Waterways Safety Act (33 U.S.C. 1223) is amended—

(1) by striking paragraph (5) of subsection (a) and inserting the following:

''(5) may require the receipt of prearrival messages from any vessel destined for a port or place subject to the jurisdiction of the United States in accordance with subsection (e).''; and

(2) by adding at the end the following:

''(e) PREARRIVAL MESSAGE REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary may require prearrival messages under subsection (a)(5) to provide any information that the Secretary determines is necessary for the control of the vessel and the safety and security of the port, waterways, facilities, vessels, and marine environment, including—

''(A) the route and name of each port and each place of destination in the United States;

''(B) the estimated date and time of arrival at each port or place;

''(C) the name of the vessel;

''(D) the country of registry of the vessel;

''(E) the call sign of the vessel;

''(F) the International Maritime Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;

''(G) the name of the registered owner of the vessel;

''(H) the name of the operator of the vessel;

''(I) the name of the classification society of the vessel;

''(J) a general description of the cargo on board the vessel;

''(K) in the case of certain dangerous cargo—

''(i) the name and description of the dangerous cargo;

''(ii) the amount of the dangerous cargo carried;

''(iii) the stowage location of the dangerous cargo; and

''(iv) the operational condition of the equipment under section 164.35 of title 33, Code of Federal Regulations;

''(L) the date of departure and name of the port from which the vessel last departed;

''(M) the name and telephone number of a 24-hour point of contact for each port included in the notice of arrival;

''(N) the location or position of the vessel at the time of the report;

''(O) a list of crew members onboard the vessel including, with respect to each crew member—

''(i) the full name;

''(ii) the date of birth;

''(iii) the nationality;

''(iv) the passport number or mariners document number; and

''(v) the position or duties;

''(P) a list of persons other than crew members onboard the vessel including, with respect to each such person—

''(i) the full name;

''(ii) the date of birth;

''(iii) the nationality; and

''(iv) the passport number; and

''(Q) any other information required by the Secretary.

''(2) FORM AND TIME.—The Secretary may require prearrival messages under subsection (a)(5) to be submitted—

''(A) in electronic or other form; and

''(B) to be submitted not later than 96 hours before the vessel's arrival or at such time, as provided in regulations, as the Secretary deems necessary to permit the Secretary to examine thoroughly all information provided.

''(3) INFORMATION NOT SUBJECT TO FOIA.—Section 552 of title 5, United States Code, does not apply to any information submitted under subsection (a)(5).

''(4) ENFORCEMENT OF REQUIREMENT.—The Secretary may deny entry of a vessel into the territorial sea of the United States if the Secretary has not received notification for the vessel in accordance with subsection (a)(5).''

(b) RELATION OF PREARRIVAL MESSAGE REQUIREMENT TO OTHER PROVISION OF LAW.—Section 5 of the Ports and Waterways Safety Act (33 U.S.C. 1224) is amended adding at the end the following:

''(c) RELATION TO PREARRIVAL MESSAGE REQUIREMENT.— Nothing in this section interferes with the Secretary's authority to require information under section 4(a)(5) before a vessel's arrival in a port or place subject to the jurisdiction of the United States.''.

**SEC. 1394. SAFETY AND SECURITY OF PORTS AND WATERWAYS.**

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended—

(1) by striking ''safety and protection of the marine environment'' in section 2(a) (33 U.S.C. 1221(a)) and inserting ''safety, protection of the marine environment, and safety and security of United States ports and waterways''; and

(2) by striking ''safety and protection of the marine environment,'' in section 5(a) (33 U.S.C. 1224(a)) and inserting ''safety, protection of the marine environment, and the safety and security of United States ports and waterways,''.

**SEC. 1395. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY DIVISION.**

(a) TRANSFER.—As soon as practicable after the date of enactment of this Act, the Administrator of General Services may transfer to the Secretary, without consideration, administrative jurisdiction over, and management of, the public land.

(b) BOUNDARY REVISION.—The boundary of the Lakeshore is revised to include the public land transferred under subsection (a).

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) ADMINISTRATION.—The Secretary may administer the public land transferred under section (a)—

(1) as part of the Lakeshore; and

(2) in accordance with applicable laws (including regulations)

(e) ACCESS TO AIDS TO NAVIGATION.—The Secretary of Transportation, in consultation with the Secretary, may access the front and rear range lights for the purposes of servicing, operating, maintaining, and repairing those lights.

(f) DEFINITIONS.—In this section:

(1) LAKESHORE.—The term ''Lakeshore'' means the Pictured Rocks National Lakeshore in the State of Michigan.

(2) MAP.—The term ''map'' means the map entitled ''Proposed Addition to Pictured Rocks National Lakeshore'', numbered 625/80048, and dated April 2002.

(3) PUBLIC LAND.—The term ''public land'' means the approximately .32 acres of United States Coast Guard land and improvements to the land, including the United States Coast Guard Auxiliary Operations Station and the front and rear range lights, as depicted on the map.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $225,000 to restore, preserve, and maintain the public land transferred under subsection (a).

**SEC. 1396. ADMINISTRATIVE WAIVER.**

The yacht EXCELLENCE III, hull identification number HQZ00255K101, is deemed to be an eligible vessel within the meaning of section 504(2) of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 nt).

**SEC. 1397. VESSEL STUYVESANT.**

(a) IN GENERAL.—Section 5501 (a)(2)(A) of the Oceans Act of 1992 (46 U.S.C. App. 292 note) is amended to read as follows:

''(A)(i) the vessel STUYVESANT, official number 648540; and

''(ii) until the earlier of December 8, 2022, or the date on which the vessel STUYVESANT ceases to be documented under section 12106 of title 46 United States Code—

''(I) any other hopper dredging vessel documented under section 12106 of title 46 United States Code, before November 4, 1992, and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest;

''(II) any non-hopper dredging vessel documented under section 12106 of title 46 United States Code and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest, but only as is necessary to fulfill dredging obligations under a specific contract for the employment of the STUYVESANT, including any extension periods, pursuant to which the STUYVESANT performs the majority of the work, as measured by cost and volume, and the non-hopper dredging vessel is used only on a temporary basis for the limited purpose of supplementing the dredging activity of the STUYVESANT under that specific contract and no other; and

''(III) any other non-hopper dredging vessel documented under section 12106 of title 46 United States Code, and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest, but only as is necessary as temporary replacement capacity for the vessel STUYVESANT,

should the STUYVESANT become disabled, for as long as the disability lasts, if repairs to the STUYVESANT to correct the disability are promptly made;''.

(b) IMPLEMENTATION.—

(1) The charterer of any vessel chartered under the authority of section 5501(a)(2)(A) of the Oceans Act of 1992, as amended by subsection (a), shall file with the Administrator of the Maritime Administration, upon execution of the charter, a copy of the charter documents, the contract pursuant to which the dredging is to occur, an affidavit of United States citizenship of the vessel owner and such other documents as the Administrator may require for the purpose of ensuring compliance with that section.

(2) The amendment made by subsection (a) applies to any vessel chartered to the Stuyvesant Dredging Company, or to an entity in which that company has an ownership interest, on the earlier of—

(A) March 1, 2005; or

(B) the date on which Army Corps of Engineers or other dredging contractual commitments for the employment of such vessel that were in effect on the date of enactment of this Act are completed.

**SEC. 1398. ESCANABA DOCK**

The Commandant of the Coast Guard is authorized to transfer $300,000 from the funds appropriated for Acquisition, Construction, and Improvements, to the City of Escanaba, Michigan.

## AMENDMENTS SUBMITTED AND PROPOSED—JUNE 25, 2002

SA 3973. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 3974. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3975. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3976. Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3977. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3978. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3979. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3980. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3981. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3982. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3983. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3984. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3985. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3986. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3987. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3988. Mr. DOMENICI (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3989. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

**SA. 3973.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXVIII, add the following:

**SEC. 2829. LAND CONVEYANCE, SUNFLOWER ARMY AMMUNITION PLANT, KANSAS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army or the Administrator of General Services may convey, without consideration, to the Johnson County Park and Recreation District, Kansas (in this section referred to as the ''District''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, in the State of Kansas consisting of approximately 2,000 acres and containing the Sunflower Army Ammunition Plant. The purpose of the conveyance is to permit the District to use the parcel for recreational purposes.

(b) ENVIRONMENTAL MATTERS.—(1) With respect to the parcel conveyed under subsection (a), the Secretary or Administrator shall retain responsibility for carrying out, to levels consistent with the intended use of the parcel by the District—

(A) any response action that may be required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or other applicable provisions of law; and

(B) any action required under any other statute to remediate petroleum products (or their derivatives) or propellants (or their derivatives).

(2) Any Federal department or agency that had or has operations resulting in the release or threatened release of any hazardous substances, petroleum products (or their derivatives) or propellants (or their derivatives) on, under, or about the parcel conveyed under subsection (a), and any Federal department or agency that owned the parcel at the time of such release or threatened release, shall pay the cost of any response action or other action that may be necessary to remediate the parcel to levels consistent with the intended use of the parcel by the District.

(3) In accepting the parcel conveyed under subsection (a), the District—

(A) shall not be treated as a responsible party under section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)), or any other applicable provision of law, for performing, or paying the cost of, any response action or other action that may be necessary as the result of any release or threatened release of hazardous substances, petroleum products (or their derivatives) or propellants (or their derivatives) on, under, or about the parcel as a result of activities on the parcel before the date of the conveyance; and

(B) shall not be subject to suit for contribution for any cost described by subparagraph (A) under section 113(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)), or any other applicable provision of law.

(c) EXCEPTION FROM SCREENING REQUIREMENT.—The conveyance of property authorized by subsection (a) shall be made without regard to the requirement under section 2696 of title 10, United States Code, that the property be screened for further Federal use in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(d) DESCRIPTION OF PROPERTY.—(1) The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary or Administrator.

(2) The Secretary or Administrator may use for the purpose of paragraph (1) a survey prepared by the National Park Service if the Secretary or Administrator determines that the survey is appropriate for that purpose.

(3) If the Secretary or Administrator obtains for the purpose of paragraph (1) a survey other than the survey described in paragraph (2), the cost of such survey shall be borne by the District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary or Administrator may require such additional terms and conditions in connection with the conveyance of real property under subsection (a) as the Secretary or Administrator considers appropriate to protect the interests of the United States.

(f) EFFECTIVE DATE.—This section shall take effect on January 31, 2003.

**SA 3974.** Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXVIII, add the following:

**SEC. 2829. LAND CONVEYANCE, BLUEGRASS ARMY DEPOT, RICHMOND, KENTUCKY.**

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Army may convey, without consideration, to Madison County, Kentucky (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 10 acres at the Bluegrass Army Depot, Richmond, Kentucky, for the purpose of facilitating the construction of a veterans' center on the parcel by the State of Kentucky.

(2) The Secretary may not make the conveyance authorized by this subsection unless

the Secretary determines that the State of Kentucky has appropriated adequate funds for the construction of the veterans' center.

(b) REVERSIONARY INTEREST.—If the Secretary determines that the real property conveyed under subsection (a) ceases to be utilized for the sole purpose of a veterans' center or that reasonable progress is not demonstrated in constructing the center and initiating services to veterans, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination under this subsection shall be made on the record after an opportunity for a hearing.

(c) ADMINISTRATIVE EXPENSES.—The Secretary shall apply section 2695 of title 10, United States Code, to the conveyance authorized by subsection (a).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

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**SA 3975.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following new title:

## TITLE XIII—MILITARY CHARTER SCHOOLS

### Subtitle A—Stable Transitions in Education for Armed Services' Dependent Youth

**SEC. 1301. SHORT TITLE.**

This subtitle may be cited as the ''Stable Transitions in Education for Armed Services' Dependent Youth Act''.

**SEC. 1302. FINDINGS.**

Congress finds that—

(1) States are establishing new and higher academic standards for students in kindergarten through grade 12;

(2) no Federal funding streams are specifically designed to help States and school districts with the costs of providing military or mobile students who are struggling academically, with the extended learning time and accelerated curricula that the students need to meet high academic standards;

(3) forty-eight States now require State accountability tests to determine student grade-level performance and progress;

(4) nineteen States currently rate the performance of all schools or identify low-performing schools through State accountability tests;

(5) sixteen States now have the power to close, take over, or overhaul chronically failing schools on the basis of those tests;

(6) fourteen States provide high-performing schools with monetary rewards on the basis of those tests;

(7) nineteen States currently require students to pass State accountability tests to graduate from secondary school;

(8) six States currently link student promotion to results on State accountability tests;

(9) thirty-seven States have a process in place that allows charters to be a useful tool to bridge the gap created by frequent school changes;

(10) excessive percentages of students are not meeting their State standards and are failing to perform at high levels on State accountability tests; and

(11) among mobile students, a common thread is that school transcripts are not easily transferred and credits are not accepted between public school districts in the United States.

**SEC. 1303. PURPOSE.**

The purpose of this subtitle is to provide Federal support through a new demonstration program to States and local educational agencies, to enable the States and local educational agencies to develop models for high quality military charter schools that are specifically designed to help mobile military dependent students attending public school make a smooth transition from one school district to another, even across State lines, and achieve a symbiotic relationship between military installations and these school districts.

**SEC. 1304. DEFINITIONS.**

In this subtitle:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL; LOCAL EDUCATIONAL AGENCY; STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''secondary school'', ''local educational agency'', and ''State educational agency'' have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) MILITARY INSTALLATION.—The term ''military installation'' has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

(3) MILITARY DEPENDENT STUDENT.—The term ''military dependent student'' means an elementary school or secondary school student who has a parent who is a member of the Armed Forces, including a member of a reserve component of the Armed Forces, without regard to whether the member is on active duty or full-time National Guard duty (as defined in section 101(d) of title 10, United States Code.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(5) STUDENT.—The term ''student'' means an elementary school or secondary school student.

**SEC. 1305. GRANTS TO STATES.**

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From amounts appropriated under section 1310, the Secretary, in consultation with the Secretary of Education, shall establish a demonstration program through which the Secretary shall make grants to State educational agencies, on a competitive basis, to enable the State educational agencies to assist local educational agencies in establishing and maintaining high quality military charter schools.

(2) DISTRIBUTION RULE.—In awarding grants under this subtitle the Secretary shall ensure that such grants serve not more than 10 States and not more than 35 local educational agencies with differing demographics.

(3) SPECIAL LOCAL RULE.—

(A) NONPARTICIPATING STATE.—If a State chooses not to participate in the demonstration program assisted under this subtitle or does not have an application approved under subsection (c), then the Secretary may award a grant directly to a local educational agency in the State to assist the local educational agency in carrying out high quality military charter schools.

(B) LOCAL EDUCATIONAL AGENCY APPLICATION.—To be eligible to receive a grant under this paragraph, a local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(C) REGULATIONS.—The Secretary shall promulgate such regulations as the Secretary determines necessary to carry out this paragraph.

(b) ELIGIBILITY AND SELECTION.—

(1) ELIGIBILITY.—For a State educational agency to be eligible to receive a grant under subsection (a), the State served by the State educational agency shall—

(A) have in effect all standards and assessments required under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311);

(B) compile and annually distribute to parents a public school report card that, at a minimum, includes information on student and school performance for each of the assessments required under section 1111 of the Elementary and Secondary Education Act of 1965;

(C) require each military charter school assisted under this subtitle to be an independent public school;

(D) require each military charter school assisted under this subtitle to operate under an initial 5-year charter granted by a State charter authority, with specified check points and renewal, as required by State law; and

(E) require each military charter school assisted under this subtitle to participate in the State's testing program.

(2) SELECTION.—In selecting State educational agencies to receive grants under this section, the Secretary shall make the selections in a manner consistent with the purpose of this subtitle.

(c) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) CONTENTS.—Such application shall include—

(A) information describing specific measurable goals and objectives to be achieved in the State through the military charter schools carried out under this subtitle, which may include specific measurable annual educational goals and objectives relating to—

(i) increased student academic achievement;

(ii) decreased student dropout rates;

(iii) governance, parental involvement plans, and disciplinary policies;

(iv) a military charter school admissions policy that requires a minimum of 60 percent military dependent elementary school or secondary school students, and a maximum of 80 percent of military dependent students, except where such percentages are impossible to maintain because of the demographics of the area around the military installation;

(v) liability and other insurance coverage, business and accounting practices, and the procedures and methods employed by the chartering authority in monitoring the school; and

(vi) such other factors as the State educational agency may choose to measure; and

(B) information on criteria, established or adopted by the State, that—

(i) the State will use to select local educational agencies for participation in the military charter schools carried out under this subtitle; and

(ii) at a minimum, will assure that grants provided under this subtitle are provided to—

(I) the local educational agencies in the State that are sympathetic to, and take actions to ease the transition burden upon, such local educational agencies' military dependent students;

(II) the local educational agencies in the State that have the highest percentage of military dependent students impacting the local school system or not meeting basic or minimum required standards for State assessments required under section 1111 of the Elementary and Secondary Education Act of 1965; and

(III) an assortment of local educational agencies serving urban, suburban, and rural areas, and impacted by a local military installation.

**SEC. 1306. GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

(a) IN GENERAL.—

(1) FIRST YEAR.—Except as provided in paragraph (3), for the first year that a State educational agency receives a grant under this subtitle, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of planning for or carrying out the military charter school programs.

(2) SUCCEEDING YEARS.—Except as provided in paragraph (3), for the second and third year that a State educational agency receives a grant under this subtitle, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of carrying out the military charter school programs.

(3) TECHNICAL ASSISTANCE AND PLANNING ASSISTANCE.—The State educational agency may use not more than 5 percent of the grant funds received under this subtitle for a fiscal year—

(A) to provide to the local educational agencies technical assistance that is aligned with the curriculum of the local educational agencies for the programs;

(B) to enable the local educational agencies to obtain such technical assistance from entities other than the State educational agency that have demonstrated success in using the curriculum; and

(C) to assist the local educational agencies in evaluating activities carried out under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the Secretary or the State educational agency may require.

(2) CONTENTS.—Each such application shall include, to the greatest extent practicable—

(A) information that—

(i) demonstrates that the local educational agency will carry out a military charter school program funded under this section—

(I) that provides intensive high quality programs that are aligned with challenging State content and student performance standards, and that is focused on reinforcing and boosting the core academic skills and knowledge of students who are struggling academically, as determined by the State;

(II) that focuses on accelerated learning, rather than remediation, so that students served through the program will master the high level skills and knowledge needed to meet the highest State standards or to perform at high levels on all State assessments required under section 1111 of the Elementary and Secondary Education Act of 1965;

(III) that is based on, and incorporates best practices developed from, research-based charter school methods and practices;

(IV) that has a proposed curriculum that is directly aligned with State content and student performance standards;

(V) for which only teachers who are certified and licensed, and are otherwise fully qualified teachers, provide academic instruction to students enrolled in the program;

(VI) that offers to staff in the program professional development and technical assistance that are aligned with the approved curriculum for the program; and

(VII) that incorporates a parental involvement component that seeks to involve parents in the program's topics and students' daily activities; and

(ii) may include—

(I) the proposed curriculum for the military charter school program;

(II) the local educational agency's plan for recruiting highly qualified and highly effective teachers to participate in the program; and

(III) a schedule for the program that indicates that the program is of sufficient duration and intensity to achieve the State's goals and objectives described in section 1305(c)(2)(A);

(B) an outline indicating how the local educational agency will utilize applicable Federal, State, local, or public funds, other than funds made available through the grant, to support the program;

(C) an explanation of how the local educational agency will ensure that the instruction provided through the program will be provided by qualified teachers;

(D) an explanation of the types of intensive training or professional development, aligned with the curriculum of the program, that will be provided for staff of the program;

(E) an explanation of the facilities to be used for the program;

(F) an explanation regarding the duration of the periods of time that students and teachers in the program will have contact for instructional purposes (such as the hours per day and days per week of that contact, and the total length of the program);

(G) an explanation of the proposed student-to-teacher ratio for the program, analyzed by grade level;

(H) an explanation of the grade levels that will be served by the program;

(I) an explanation of the approximate cost per student for the program;

(J) an explanation of the salary costs for teachers in the program;

(K) a description of a method for evaluating the effectiveness of the program at the local level;

(L) information describing specific measurable goals and objectives, for each academic subject in which the program will provide instruction, that are consistent with, or more rigorous than, the adequate yearly progress goals established by the State under section 1111 of the Elementary and Secondary Education Act of 1965;

(M) a description of how the local educational agency will involve parents and the community in the program in order to raise academic achievement;

(N) a description of how the local educational agency will acquire any needed technical assistance that is aligned with the curriculum of the local educational agency for the program, from the State educational agency or other entities with demonstrated success in using the curriculum; and

(O) a statement of a clearly defined goal for providing counseling and other transition burden relief for military dependent children.

(c) PRIORITY.—In making grants under this section, the State educational agency shall give priority to local educational agencies that demonstrate a high level of need for the military charter school programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) is 50 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

**SEC. 1307. SUPPLEMENT NOT SUPPLANT.**

Funds appropriated pursuant to the authority of this subtitle shall be used to supplement and not supplant other Federal, State, local, or private funds expended to support military charter school programs.

**SEC. 1308. REPORTS.**

(a) STATE REPORTS.—Each State educational agency that receives a grant under this subtitle shall annually prepare and submit to the Secretary a report. The report shall describe—

(1) the method the State educational agency used to make grants to eligible local educational agencies and to provide assistance to schools under this subtitle;

(2) the specific measurable goals and objectives described in section 1305(c)(2)(A) for the State as a whole and the extent to which the State met each of the goals and objectives in the year preceding the submission of the report;

(3) the specific measurable goals and objectives described in section 1306(b)(2)(L) for each of the local educational agencies receiving a grant under this subtitle in the State and the extent to which each of the agencies met each of the goals and objectives in that preceding year;

(4) the steps that the State educational agency will take to ensure that any such local educational agency that did not meet the goals and objectives in that year will meet the goals and objectives in the year following the submission of the report, or the plan that the State educational agency has for revoking the grant awarded to such an agency and redistributing the grant funds to existing or new military charter school programs;

(5) how eligible local educational agencies and schools used funds provided by the State educational agency under this subtitle;

(6) the degree to which progress has been made toward meeting the goals and objectives described in section 1305(c)(2)(A); and

(7) best practices for the Secretary to share with interested parties.

(b) REPORT TO CONGRESS.—The Secretary shall annually prepare and submit to Congress a report. The report shall describe—

(1) the methods the State educational agencies used to make grants to eligible local educational agencies and to provide assistance to schools under this subtitle;

(2) how eligible local educational agencies and schools used funds provided under this subtitle; and

(3) the degree to which progress has been made toward meeting the goals and objectives described in sections 1305(c)(2)(A) and 1306(b)(2)(L).

(c) GOVERNMENT ACCOUNTING OFFICE REPORT TO CONGRESS.—The Comptroller General of the United States shall conduct a study regarding the demonstration program carried out under this subtitle and the impact of the program on student achievement. The Comptroller General shall prepare and submit to Congress a report containing the results of the study.

**SEC. 1309. ADMINISTRATION.**

(a) FEDERAL.—The Secretary shall develop program guidelines for and oversee the demonstration program carried out under this subtitle.

(b) LOCAL.—The commander of each military installation served by a military charter school assisted under this subtitle shall establish a nonprofit corporation or an oversight group to provide the applicable local educational agency with oversight and guidance regarding the day-to-day operations of the military charter school.

**SEC. 1310. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle—

(1) $5,000,000 for fiscal year 2003;
(2) $7,000,000 for fiscal year 2004;
(3) $9,000,000 for fiscal year 2005;
(4) $11,000,000 for fiscal year 2007; and
(5) $13,000,000 for fiscal year 2008.

**SEC. 1311. TERMINATION.**

The authority provided by this subtitle terminates 5 years after the date of enactment of this Act.

**Subtitle B—Credit Enhancement Initiatives To Promote Military Charter School Facility Acquisition, Construction, and Renovation**

**SEC. 1321. CREDIT ENHANCEMENT INITIATIVES TO PROMOTE MILITARY CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION.**

Title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7201 et seq.) is amended by adding at the end the following:

**"PART E—CREDIT ENHANCEMENT INITIATIVES TO PROMOTE MILITARY CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION.**

**"SEC. 5701. PURPOSE.**

''The purpose of this part is to provide grants to eligible entities to permit the eligible entities to establish or improve innovative credit enhancement initiatives that assist military charter schools to address the cost of acquiring, constructing, and renovating facilities.

**"SEC. 5702. GRANTS TO ELIGIBLE ENTITIES.**

''(a) GRANTS FOR INITIATIVES.—

''(1) IN GENERAL.—The Secretary shall use 100 percent of the amount available to carry out this part to award grants to eligible entities that have applications approved under this part, to enable the eligible entities to carry out innovative initiatives for assisting military charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

''(2) NUMBER OF GRANTS.—The Secretary shall award not less than 4 grants under this part in each fiscal year.

''(b) GRANTEE SELECTION.—

''(1) DETERMINATION.—The Secretary shall evaluate each application submitted, and shall determine which applications are of sufficient quality to merit approval and which are not.

''(2) MINIMUM GRANTS.—The Secretary shall award at least—

''(A) 1 grant to an eligible entity described in section 5710(1)(A);

''(B) 1 grant to an eligible entity described in section 5710(1)(B); and

''(C) 1 grant to an eligible entity described in section 5710(1)(C),

if applications are submitted that permit the Secretary to award the grants without approving an application that is not of sufficient quality to merit approval.

''(c) GRANT CHARACTERISTICS.—Grants under this part shall be in sufficient amounts, and for initiatives of sufficient scope and quality, so as to effectively enhance credit for the financing of military charter school acquisition, construction, or renovation.

''(d) SPECIAL RULE.—In the event the Secretary determines that the funds available to carry out this part are insufficient to permit the Secretary to award not less than 4 grants in accordance with subsections (a) through (c)—

''(1) subsections (a)(2) and (b)(2) shall not apply; and

''(2) the Secretary may determine the appropriate number of grants to be awarded in accordance with subsections (a)(1), (b)(1), and (c).

**"SEC. 5703. APPLICATIONS.**

''(a) IN GENERAL.—To receive a grant under this part, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

''(b) CONTENTS.—An application submitted under subsection (a) shall contain—

''(1) a statement identifying the activities proposed to be undertaken with funds received under this part, including how the eligible entity will determine which military charter schools will receive assistance, and how much and what types of assistance the military charter schools will receive;

''(2) a description of the involvement of military charter schools in the application's development and the design of the proposed activities;

''(3) a description of the eligible entity's expertise in capital market financing;

''(4) a description of how the proposed activities will—

''(A) leverage private sector financing capital, to obtain the maximum amount of private sector financing capital, relative to the amount of government funding used, to assist military charter schools; and

''(B) otherwise enhance credit available to military charter schools;

''(5) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a military charter school program for which facilities financing is sought;

''(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that military charter schools within the State receive the funding the schools need to have adequate facilities;

''(7) an assurance that the eligible entity will give priority to funding initiatives that assist military charter schools in which students have demonstrated academic excellence or improvement during the 2 consecutive academic years preceding submission of the application; and

''(8) such other information as the Secretary may reasonably require.

**"SEC. 5704. MILITARY CHARTER SCHOOL OBJECTIVES.**

''An eligible entity receiving a grant under this part shall use the funds received through the grant, and deposited in the reserve account established under section 5705(a), to assist 1 or more military charter schools to access private sector capital to accomplish 1 or more of the following objectives:

''(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a military charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a military charter school.

''(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a military charter school.

''(3) The payment of startup costs, including the costs of training teachers and purchasing materials and equipment, including instructional materials and computers, for a military charter school.

**"SEC. 5705. RESERVE ACCOUNT.**

''(a) IN GENERAL.—For the purpose of assisting military charter schools to accomplish the objectives described in section 5704, an eligible entity receiving a grant under this part shall deposit the funds received through the grant (other than funds used for administrative costs in accordance with section 5706) in a reserve account established and maintained by the eligible entity for that purpose. The eligible entity shall make the deposit in accordance with State and local law and may make the deposit directly or indirectly, and alone or in collaboration with others.

''(b) USE OF FUNDS.—Amounts deposited in such account shall be used by the eligible entity for 1 or more of the following purposes:

''(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 5704.

''(2) Guaranteeing and insuring leases of personal and real property for such an objective.

''(3) Facilitating financing for such an objective by identifying potential lending sources, encouraging private lending, and carrying out other similar activities that directly promote lending to, or for the benefit of, military charter schools.

''(4) Facilitating the issuance of bonds by military charter schools, or by other public entities for the benefit of military charter schools, for such an objective, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple military charter school projects within a single bond issue).

''(c) INVESTMENT.—Funds received under this part and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

''(d) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this part shall be deposited in the reserve account established under subsection (a) and used in accordance with subsection (b).

**"SEC. 5706. LIMITATION ON ADMINISTRATIVE COSTS.**

''An eligible entity that receives a grant under this part may use not more than 0.25 percent of the funds received through the grant for the administrative costs of carrying out the eligible entity's responsibilities under this part.

**"SEC. 5707. AUDITS AND REPORTS.**

''(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this part shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

''(b) REPORTS.—

''(1) ELIGIBLE ENTITY ANNUAL REPORTS.—Each eligible entity receiving a grant under this part annually shall submit to the Secretary a report of the eligible entity's operations and activities under this part.

''(2) CONTENTS.—Each such annual report shall include—

''(A) a copy of the eligible entity's most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant auditing the financial records of the eligible entity;

''(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

''(C) an evaluation by the eligible entity of the effectiveness of the entity's use of the Federal funds provided under this part in leveraging private funds;

''(D) a listing and description of the military charter schools served by the eligible entity with such Federal funds during the reporting period;

''(E) a description of the activities carried out by the eligible entity to assist military charter schools in meeting the objectives set forth in section 5704; and

''(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this part during the reporting period.

''(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this part.

**''SEC. 5708. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.**

''No financial obligation of an eligible entity entered into pursuant to this part (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds that may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this part.

**''SEC. 5709 RECOVERY OF FUNDS.**

''(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

''(1) all of the funds in a reserve account established by an eligible entity under section 5705(a), if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this part, that the entity has failed to make substantial progress in carrying out the purposes described in section 5705(b); or

''(2) all or a portion of the funds in a reserve account established by an eligible entity under section 5705(a), if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 5705(b).

''(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve 1 or more of the purposes described in section 5705(b).

''(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act (20 U.S.C. 1234, 1234a, 1234g) shall apply to the recovery of funds under subsection (a).

''(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

**''SEC. 5710. DEFINITIONS.**

''In this part:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) a public entity, such as a military installation as defined in section 2687(e)(1) of title 10, United States Code;

''(B) a private nonprofit entity; or

''(C) a consortium of entities described in subparagraphs (A) and (B).

''(2) MILITARY CHARTER SCHOOL.—The term 'military charter school' has the meaning given such term by regulations promulgated by the Secretary of Defense.

**''SEC. 5711. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 2003 and each succeeding fiscal year.''.

**SEC. 1322. INCOME EXCLUSION FOR INTEREST PAID ON LOANS BY MILITARY CHARTER SCHOOLS.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

**''SEC. 139A. INTEREST ON MILITARY CHARTER SCHOOL LOANS.**

''(a) EXCLUSION.—Gross income does not include interest on any military charter school loan.

''(b) MILITARY CHARTER SCHOOL LOAN.—For purposes of this section:

''(1) IN GENERAL.—The term 'military charter school loan' means any indebtedness incurred by a military charter school.

''(2) MILITARY CHARTER SCHOOL.—The term 'military charter school' means an institution defined as a military charter school by the Secretary of Defense.''.

(b) CONFORMING AMENDMENT.—The table of sections for such part III is amended by inserting after the item relating to section 139 the following:

''Sec. 139A. Interest on military charter school loans.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act, with respect to indebtedness incurred after the date of enactment of this Act.

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**SA 3976.** Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 258, after line 24, insert the following:

**SEC. 1065. COMMENDATION OF MILITARY CHAPLAINS.**

(a) FINDINGS.—Congress finds the following:

(1) Military chaplains have served with those who fought for the cause of freedom since the founding of the Nation.

(2) Military chaplains and religious support personnel of the Armed Forces have served with distinction as uniformed members of the Armed Forces in support of the Nation's defense missions during every conflict in the history of the United States.

(3) 400 United States military chaplains have died in combat, some as a result of direct fire while ministering to fallen Americans, while others made the ultimate sacrifice as a prisoner of war.

(4) Military chaplains currently serve in humanitarian operations, rotational deployments, and in the war on terrorism.

(5) Religious organizations make up the very fabric of religious diversity and represent unparalleled levels of freedom of conscience, speech, and worship that set the United States apart from any other nation on Earth.

(6) Religious organizations have richly blessed the uniformed services by sending clergy to comfort and encourage all persons of faith in the Armed Forces.

(7) During the sinking of the USS Dorchester in February 1943 during World War II, four chaplains (Reverend Fox, Reverend Poling, Father Washington, and Rabbi Goode) gave their lives so that others might live.

(8) All military chaplains aid and assist members of the Armed Forces and their family members with the challenging issues of today's world.

(9) The current war against terrorism has brought to the shores of the United States new threats and concerns that strike at the beliefs and emotions of Americans.

(10) Military chaplains must, as never before, deal with the spiritual well-being of the members of the Armed Forces and their families.

(b) COMMENDATION.—Congress, on behalf of the Nation, expresses its appreciation for the outstanding contribution that all military chaplains make to the members of the Armed Forces and their families.

(c) PRESIDENTIAL PROCLAMATION.—The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize the distinguished service of the Nation's military chaplains.

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**SA 3977.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

**SECTION 1. ENVIRONMENTAL ASSISTANCE TO NON-FEDERAL INTERESTS IN WYOMING.**

Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383) is amended—

(1) in the section heading, by striking ''AND MONTANA'' and inserting '', MONTANA, AND WYOMING'';

(2) in subsections (b) and (c), by striking ''and Montana'' each place it appears and inserting '', Montana, and Wyoming''; and

(3) in subsection (h)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by adding ''and'' at the end; and

(C) by inserting after paragraph (2) the following: ''(3) $25,000,000 for Wyoming:''.

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**SA 3978.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, line 24, increase the amount by $1,000,000.

On page 13, line 14, reduce the amount by $1,000,000.

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**SA 3979.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for

military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, line 2, increase the first amount by $1,000,000.

On page 14, line 5, reduce the amount by $1,000,000.

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**SA 3980.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, line 18, increase the amount by $1,000,000.

On page 13, line 14, reduce the amount by $1,000,000.

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**SA 3981.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, between lines 12 and 13, insert the following:

**SEC. 135. MOBILE EMERGENCY BROADBAND SYSTEM.**

(a) AMOUNT FOR PROGRAM.—Of the total amount authorized to be appropriated by section 103(4), $1,000,000 shall be available for the procurement of technical communications-electronics equipment for the Mobile Emergency Broadband System.

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 103(4), the amount available under such section for the Navy for other procurement for gun fire control equipment, SPQ–9B solid state transmitter, is hereby reduced by $1,000,000.

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**SA 3982.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In the table in section 2301(a), insert after the item relating to the United States Air Force Academy, Colorado, the following:

| | | |
|---|---|---|
| Delaware | Dover Air Force Base | $7,500,000 |

In the table in section 2301(a), strike the amount identified as the total in the amount column and insert ''$729,031,000''.

In section 2304(a), strike ''$2,597,272,000'' in the matter preceding paragraph (1) and insert ''$2,604,772,000''.

In section 2304(a)(1), strike ''$709,431,000'' and insert ''$716,931,000''.

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**SA 3983.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following new section at the appropriate place:

**SEC. . RATIFICATION OF AGREEMENT REGARDING ADAK NAVAL COMPLEX, ALASKA, AND RELATED LAND CONVEYANCES.**

(a) RATIFICATION OF AGREEMENT.—The document entitled the ''Agreement Concerning the Conveyance of Property at the Adak Naval Complex (hereinafter ''the Agreement''), and dated September 20, 2000, executed by the Aleut Corporation, the Department of the Interior and the Department of the Navy, together with any technical amendments or modifications to the boundaries that may be agreed to be the parties is hereby ratified, confirmed, and approved and the terms, conditions, procedures, covenants, reservations, indemnities and other provisions set forth in the Agreement are declared to be obligations and commitments of the United States and the Aleut Corporation as a matter of Federal law: Provided, That modifications to the maps and legal descriptions of lands to be removed from the National Wildlife Refuge System within the military withdrawal on Adak Island set forth in Public Land Order 1949 may be made only upon agreement of all Parties to the Agreement and notification given to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate: Provided further, That the acreage conveyed to the United States by the Aleut Corporation under the Agreement, as modified, shall be at least 36,000 acres.

(b) REMOVAL OF LANDS FROM REFUGE.—Effective on the date of conveyance to the Aleut Corporation of the Adak Exchange Lands as described in the Agreement, all such lands shall be removed from the National Wildlife Refuge System and shall neither be considered as part of the Alaska Maritime National Wildlife Refuge nor be subject to any laws pertaining to lands within the boundaries of the Alaska Maritime National Wildlife Refuge, including the conveyance restrictions imposed by section 22(g) of the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. 1621(g), for land in the National Wildlife Refuge System. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands and land rights, surface and subsurface, received by the Aleut Corporation in accordance with this Act and the Agreement.

(c) RELATION TO ALASKA NATIVE CLAIMS SETTLEMENT ACT.—Lands and interests therein exchanged and conveyed by the United States pursuant to this Act shall be considered and treated as conveyances of lands or interests therein under the ANCSA, except that receipt of such lands and interests therein shall not constitute a sale or disposition of land or interests received pursuant to such Act. The public easements for access to public lands and waters reserved pursuant to the Agreement are deemed to satisfy the requirements and purposes of Section 17(b) of the ANCSA.

(d) REACQUISITION OF LANDS.—The Secretary of the Interior is authorized to acquire by purchase or exchange, on a willing seller basis only, any land conveyed to the Aleut Corporation under the Agreement and this Act. In the event any of the lands are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

(e) MISCELLANEOUS PROVISIONS.—(1) Notwithstanding the Federal Property and Administration Act of 1949, as amended (40 U.S.C. 483–484) and the Defense Base Closure and Realignment Act of 1990, as amended (10 U.S.C. 2687), and for the purposes of the transfer of property authorized by this Act, Department of the Navy personal property that remains on Adak Island is deemed related to the real property and shall be conveyed by the Department of the Navy to the Aleut Corporation at no additional cost when the related real property is conveyed by the Department of the Interior.

(2) The Secretary of the Interior shall convey to the Aleut Corporation those lands identified in the Agreement as the former landfill sites without charge to the Aleut Corporation's entitlement under the Alaska Native Claims Settlement Act.

(3) For purposes of section 21(c) of the ANCSA, the receipt of all property by the Aleut Corporation shall be entitled to a tax basis equal to fair value on the date of transfer. Fair value shall be determined by replacement cost appraisal.

(4) Any property, including, but not limited to, appurtenance and improvements, received pursuant to this Act shall, for purposes of section 21(d) of the ANCSA, as amended, and section 907(d) of the Alaska National Interest Lands Conservation Act, as amended, be treated as not developed until such property is actually occupied, leased (other than leases for nominal consideration to public entities) or sold by the Aleut Corporation, or, in the case of a lease or other transfer by the Aleut Corporation to a wholly owned development subsidiary, actually occupied, leased, or sold by the subsidiary.

(5) Upon conveyance to the Aleut Corporation of the lands described in Appendix A of the Agreement, the lands described in Appendix C of the Agreement will become unavailable for selection under ANCSA.

(6) The maps included as part of Appendix A to the Agreement depict the lands to be conveyed to the Aleut Corporation. The maps shall be left on file at the Region 7 Office of the U.S. Fish and Wildlife Service and the offices of the Alaska Maritime National

Wildlife Refuge in Homer, Alaska. The written legal descriptions of the lands to be conveyed to the Aleut Corporation are also part of Appendix A. In case of any discrepancies, the maps shall be controlling.

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**SA 3984.** Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXIII, add the following:

**SEC. 2305. AVAILABILITY OF FUNDS FOR CONSOLIDATION OF MATERIALS COMPUTATIONAL RESEARCH FACILITY AT WRIGHT–PATTERSON AIR FORCE BASE, OHIO.**

(a) AVAILABILITY.—Of the amount authorized to be appropriated by section 2304(a), and paragraph (1) of that section, for the Air Force and available for military construction projects at Wright–Patterson Air Force Base, Ohio, $15,200,000 shall be available for a military construction project for consolidation of the materials computational research facility at Wright–Patterson Air Force Base (PNZHTV033301A).

(b) OFFSET.—(1) The amount authorized to be appropriated by section 301(a)(4) for the Air Force for operation and maintenance is hereby reduced by $2,800,000.

(2) Of the amount authorized to be appropriated by section 2304(a), and paragraph (1) of that section, for the Air Force and available for military construction projects at Wright–Patterson Air Force Base—

(A) the amount available for a dormitory is hereby reduced by $10,400,000; and

(B) the amount available for construction of a Fully Contained Small Arms Range Complex is hereby reduced by $2,000,000.

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**SA 3985.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 214. AEROSPACE RELAY MIRROR SYSTEM (ARMS) DEMONSTRATION.**

Of the amount authorized to be appropriated by section 201(3) for the Department of Defense for research, development, test, and evaluation for the Air Force, $6,000,000 may be available for the Aerospace Relay Mirror System (ARMS) Demonstration.

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**SA 3986.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXI, add the following:

**SEC. 2109. ADDITIONAL FISCAL YEAR 2003 MILITARY CONSTRUCTION PROJECT FOR ANECHOIC CHAMBER AT WHITE SANDS MISSILE RANGE, NEW MEXICO.**

(a) PROJECT AUTHORIZED.—In addition to the military construction projects authorized in section 2101(a), the Secretary of the Army may carry out a military construction project, including land acquisition related thereto, at White Sands Missile Range, New Mexico, for an anechoic chamber in the amount of $3,000,000.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 2104(a), and paragraph (1) of that section, there is authorized to be appropriated for fiscal years beginning after September 30, 2002, for the Department of the Army for the military construction project authorized in subsection (a), $3,000,000.

(c) OFFSET.—The amount authorized to be appropriated by section 301(a)(1) for the Army for operation and maintenance is hereby reduced by $3,000,000, with the amount of the reduction to be allocated to Base Operations Support (Servicewide Support).

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**SA 3987.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 214. ELECTROMAGNETIC WAVE DETECTION AND IMAGING TRANSCEIVER (EDIT).**

(a) AVAILABILITY OF FUNDS.—(1) The amount authorized to be appropriated by section 201(1) for the Department of Defense for research, development, test, and evaluation for the Army and available for landmine warfare and barrier advanced technology (PE#0603606A) is increased by $4,500,000, with the amount of the increase to be available for the Electromagnetic Wave Detection and Imaging Transceiver (EDIT).

(2) The amount available under paragraph (1) for the Electromagnetic Wave Detection and Imaging Transceiver is in addition to any other amounts available under this Act for that item.

(b) OFFSET.—The amount authorized to be appropriated by section 201(1) for the Department of Defense for research, development, test, and evaluation for the Army and available for warfighter advanced technology (PE#0603001A) is reduced by $4,500,000.

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**SA 3988.** Mr. DOMENICI (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

**TITLE XIII—COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION**

**SEC. 1301. SHORT TITLE.**

This title may be cited as the ''Commercial Reusable In-Space Transportation Act of 2002''.

**SEC. 1302. FINDINGS.**

Congress makes the following findings:

(1) It is in the national interest to encourage the production of cost-effective, in-space transportation systems, which would be built and operated by the private sector on a commercial basis.

(2) The use of reusable in-space transportation systems will enhance performance levels of in-space operations, enhance efficient and safe disposal of satellites at the end of their useful lives, and increase the capability and reliability of existing ground-to-space launch vehicles.

(3) Commercial reusable in-space transportation systems will enhance the economic well-being and national security of the United States by reducing space operations costs for commercial and national space programs and by adding new space capabilities to space operations.

(4) Commercial reusable in-space transportation systems will provide new cost-effective space capabilities (including orbital transfers from low altitude orbits to high altitude orbits and return, the correction of erroneous satellite orbits, and the recovery, refurbishment, and refueling of satellites) and the provision of upper stage functions to increase ground-to-orbit launch vehicle payloads to geostationary and other high energy orbits.

(5) Commercial reusable in-space transportation systems can enhance and enable the space exploration of the United States by providing lower cost trajectory injection from earth orbit, transit trajectory control, and planet arrival deceleration to support potential National Aeronautics and Space Administration missions to Mars, Pluto, and other planets.

(6) Satellites stranded in erroneous earth orbit due to deficiencies in their launch represent substantial economic loss to the United States and present substantial concerns for the current backlog of national space assets.

(7) Commercial reusable in-space transportation systems can provide new options for alternative planning approaches and risk management to enhance the mission assurance of national space assets.

(8) Commercial reusable in-space transportation systems developed by the private sector can provide in-space transportation services to the National Aeronautics and Space Administration, the Department of Defense, the National Reconnaissance Office, and other agencies without the need for the United States to bear the cost of production of such systems.

(9) The availability of loan guarantees, with the cost of credit risk to the United States paid by the private-sector, is an effective means by which the United States can help qualifying private-sector companies secure otherwise unattainable private financing for the production of commercial reusable in-space transportation systems, while at the same time minimizing Government commitment and involvement in the development of such systems.

**SEC. 1303. LOAN GUARANTEES FOR PRODUCTION OF COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION.**

(a) AUTHORITY TO MAKE LOAN GUARANTEES.—The Secretary may guarantee loans made to eligible United States commercial providers for purposes of producing commercial reusable in-space transportation services or systems.

(b) ELIGIBLE UNITED STATES COMMERCIAL PROVIDERS.—The Secretary shall prescribe requirements for the eligibility of United States commercial providers for loan guarantees under this section. Such requirements shall ensure that eligible providers are financially capable of undertaking a loan guaranteed under this section.

(c) LIMITATION ON LOANS GUARANTEED.—The Secretary may not guarantee a loan for a United States commercial provider under this section unless the Secretary determines that credit would not otherwise be reasonably available at the time of the guarantee for the commercial reusable in-space transportation service or system to be produced utilizing the proceeds of the loan.

(d) CREDIT SUBSIDY.—

(1) COLLECTION REQUIRED.—The Secretary shall collect from each United States commercial provider receiving a loan guarantee under this section an amount equal to the amount, as determined by the Secretary, to cover the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of the loan guarantee.

(2) PERIODIC DISBURSEMENTS.—In the case of a loan guarantee in which proceeds of the loan are disbursed over time, the Secretary shall collect the amount required under this subsection on a pro rata basis, as determined by the Secretary, at the time of each disbursement.

(e) OTHER TERMS AND CONDITIONS.—

(1) PROHIBITION ON SUBORDINATION.—A loan guaranteed under this section may not be subordinated to another debt contracted by the United States commercial provider concerned, or to any other claims against such provider.

(2) RESTRICTION ON INCOME.—A loan guaranteed under this section may not—

(A) provide income which is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986; or

(B) provide significant collateral or security, as determined by the Secretary, for other obligations the income from which is so excluded.

(3) TREATMENT OF GUARANTEE.—The guarantee of a loan under this section shall be conclusive evidence of the following:

(A) That the guarantee has been properly obtained.

(B) That the loan qualifies for the guarantee.

(C) That, but for fraud or material misrepresentation by the holder of the loan, the guarantee is valid, legal, and enforceable.

(4) OTHER TERMS AND CONDITIONS.—The Secretary may establish any other terms and conditions for a guarantee of a loan under this section, as the Secretary considers appropriate to protect the financial interests of the United States.

(f) ENFORCEMENT OF RIGHTS.—

(1) IN GENERAL.—The Attorney General may take any action the Attorney General considers appropriate to enforce any right accruing to the United States under a loan guarantee under this section.

(2) FORBEARANCE.—The Attorney General may, with the approval of the parties concerned, forebear from enforcing any right of the United States under a loan guaranteed under this section for the benefit of a United States commercial provider if such forbearance will not result in any cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, to the United States.

(3) UTILIZATION OF PROPERTY.—Notwithstanding any other provision of law and subject to the terms of a loan guaranteed under this section, upon the default of a United States commercial provider under the loan, the Secretary may, at the election of the Secretary—

(A) assume control of the physical asset financed by the loan; and

(B) complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell the physical asset.

(g) CREDIT INSTRUMENTS.—

(1) AUTHORITY TO ISSUE INSTRUMENTS.—Notwithstanding any other provision of law, the Secretary may, subject to such terms and conditions as the Secretary considers appropriate, issue credit instruments to United States commercial providers of in-space transportation services or system, with the aggregate cost (as determined under the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of such instruments not to exceed $1,500,000,000, but only to the extent that new budget authority to cover such costs is provided in appropriations Acts or authority is otherwise provided in appropriations Acts.

(2) CREDIT SUBSIDY.—The Secretary shall provide a credit subsidy for any credit instrument issued under this subsection in accordance with the provisions of the Federal Credit Reform Act of 1990.

(3) CONSTRUCTION.—The eligibility of a United States commercial provider of in-space transportation services or systems for a credit instrument under this subsection is in addition to any eligibility of such provider for a loan guarantee under other provisions of this section.

**SEC. 1304. DEFINITIONS.**

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(2) COMMERCIAL PROVIDER.—The term ''commercial provider'' means any person or entity providing commercial reusable in-orbit space transportation services or systems, primary control of which is held by persons other than the Federal Government, a State or local government, or a foreign government.

(3) IN-SPACE TRANSPORTATION SERVICES.—The term ''in-space transportation services'' means operations and activities involved in the direct transportation or attempted transportation of a payload or object from one orbit to another by means of an in-space transportation vehicle.

(4) IN-SPACE TRANSPORTATION SYSTEM.—The term ''in-space transportation system'' means the space and ground elements, including in-space transportation vehicles and support space systems, and ground administration and control facilities and associated equipment, necessary for the provision of in-space transportation services.

(5) IN-SPACE TRANSPORTATION VEHICLE.—The term ''in-space transportation vehicle'' means a vehicle designed—

(A) to be based and operated in space;

(B) to transport various payloads or objects from one orbit to another orbit; and

(C) to be reusable and refueled in space.

(6) UNITED STATES COMMERCIAL PROVIDER.—The term ''United States commercial provider'' means any commercial provider organized under the laws of the United States that is more than 50 percent owned by United States nationals.

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**SA 3989.** Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 258, after line 24, insert the following:

**SEC. 1065. SENSE OF THE SENATE REGARDING AMTRAK.**

(a) FINDINGS.—The Senate makes the following findings:

(1) The terrorist attacks of September 11, 2001, shut down airports across the Nation and the National Railroad Passenger Corporation (Amtrak) was called upon to transport displaced air travelers and deliver emergency relief supplies to ground zero in New York and Washington D.C.

(2) Thousands of Americans nationwide turned to Amtrak in the weeks following September 11, 2001, for their intercity travel needs.

(3) Nearly 23,000,000 Americans depend on Amtrak for their recreational and business travel needs every year.

(4) Amtrak transports 61,000 intercity passengers each day.

(5) Amtrak provides access to commuter rail operators which serve 80,000,000 commuters each year.

(6) Amtrak has only received $25,000,000,000 in Federal funding over the past 30 years in comparison with $750,000,000,000 spent on highways and aviation.

(7) The airlines received $15,000,000,000 to avoid an industrywide shutdown following the terrorist attacks of September 11, 2001.

(8) The airlines received $150,000,000 this year in Federal funding to provide air service to 80 cities where passenger revenues were insufficient to support the provision of service.

(9) The Amtrak Reform and Accountability Act of 1997 authorized $5,160,000,000 in Federal funding and Amtrak only received $2,860,000,000.

(10) The Secretary of Transportation, Norman Y. Mineta, in his address to the United States Chamber of Commerce on June 20, 2002, stated that, ''In a long career in Congress and now as Secretary of Transportation, I have not wavered from an important conviction: intercity passenger rail is an important part of the Nation's transportation system.''

(11) No passenger rail system in the world operates without substantial government subsidies.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President and the Department of Transportation should act immediately to provide $200,000,000 in loan guarantees to prevent a systemwide shutdown of the National Railroad Corporation (Amtrak);

(2) it is vital to the United States national security that Amtrak continues to operate as the sole provider of intercity passenger rail service in the United States;

(3) it is not necessary that Amtrak operate as a for-profit business venture; and

(4) it is necessary that Congress and the Administration work together to provide $1,200,000,000 for Amtrak in fiscal year 2003.

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## NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources on the Department of Energy's, DOE's, Environmental Management, EM, Program.

The hearing will explore DOE's progress in implementing its accelerated cleanup initiative and the changes

DOE has proposed to the EM science and technology program.

The hearing will be held on Thursday, July 11, at 10 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should e-mail it to amanda_goldman@energy.senate.gov or fax it to 202–224–9026.

For further information, please contact Jonathan Epstein at 202–224–3357 or John Kotek at 202–224–6385.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Tuesday, June 25, 2002. The purpose of this hearing will be to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 25, 2002, at 9:30 a.m. on reauthorization of the National Transportation Safety Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, June 25, 2002, at 9:30 a.m. to hold a hearing to conduct oversight of the Environmental Protection Agency Inspector General's actions with respect to the Ombudsman and evaluate S. 606, a bill to provide additional authority to the Office of the Ombudsman of EPA.

The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 25, 2002 at 10:15 a.m. to hold a nominations hearing.

Agenda

Nominees: Mr. James Jeffrey, of Virginia, to be Ambassador to the Republic of Albania; Mr. Michael Klosson, of Maryland, to be Ambassador to the Republic of Cyprus; Mr. James Gadsden, of Maryland, to be Ambassador to the Republic of Iceland; and Mr. Randolph Bell, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 25, 2002 at 2:30 p.m. to hold a hearing on the Peace Corps.

Agenda

*Witnesses*

Panel 1: The Honorable Gaddi Vasquez, Director, The Peace Corps, Washington, DC.

Panel 2: The Honorable Mark Schneider, Former Director of the Peace Corps, Vice President, International Crisis Group, Washington, DC.

Panel 3—Returned Peace Corps Volunteers: Mr. Dane Smith, Peace Corps volunteer in Ethiopia 1963–65, President, National Peace Corps Association, Washington, DC; Mrs. Barbara Ferris, Volunteer in Morocco (1980–1982), Women in Development Coordinator (1987–1993), Peace Corps, Washington, DC; and Mr. John Coyne Pelham, Volunteer in Ethiopia/Eritrea (1962–1964), NYC Regional Manager (1994–2000), Peace Corps, New York City, New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on the reauthorization of the Office of Education Research and Improvement during the session of the Senate on Tuesday, June 25, 2002, at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Submitted on Public Health, be authorized to meet for a hearing on ''The Crisis in Children's Dental Health: A Silent Epidemic'' during the session of the Senate on Tuesday, June 25, 2002, at 2:30 p.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space and the House Subcommittee on Science and Space be authorized to meet on Tuesday, June 25, 2002, at 1 p.m. in 2318 Rayburn Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on ''Protecting the Homeland: The President's Proposal for Reorganizing Our Homeland Security Infrastructure'' on Tuesday, June 25, 2002, at 10 a.m. in room 226 of the Dirksen Senate Office Building.

Agenda

*Tentative witness list*

Panel I: The Honorable Warren B. Rudman, Co-Chair, United States Commission on National Security/21st Century, Washington, DC; the Honorable James S. Gilmore III, Former Governor of the Commonwealth of Virginia and Chairman, Advisory Panel to Assess the Capabilities for Domestic Response to Terrorism Involving Weapons of Mass Destruction, Richmond, VA; and the Honorable David M. Walker, Comptroller General, General Accounting Office, Washington, DC.

Panel II: Paul C. Light, Vice President and Director, Governmental Studies, the Brookings Institution, Washington, DC; Ivo H. Daalder, Senior Fellow, Foreign Policy Studies, the Brookings Institution, Washington, DC; and Ivan Eland, Director, Defense Policy Studies, CATO Institute, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE READ THE FIRST TIME—H.R. 3971

Mr. REID. I believe that H.R. 3971, which was recently received from the House, is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 3971) to provide for independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

Mr. REID. I now ask for its second reading but object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

## VIOLENCE AGAINST MASS TRANSPORTATION SYSTEMS

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of Calendar No. 430, S. 2621.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2621) to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Madam President. I am pleased the Senate is considering today S. 2621, a bill I introduced earlier this month with Senator BIDEN that is also cosponsored by Senators HATCH and SCHUMER. This bill is intended to clarify that an airplane is a vehicle for purposes of terrorist and other violent acts against mass transportation systems. A significant question about this point has been raised in an important criminal case and deserves our prompt attention.

On June 11, 2002, a U.S. district judge in Boston dismissed one of the nine charges against Richard Reid stemming from his alleged attempt to detonate an explosive device in his shoe while onboard an international flight from Paris to Miami on December 22, 2001. The dismissed count charged defendant Reid with violating section 1993 of title 18, United States Code, by attempting to ''wreck, set fire to, and disable a mass transportation vehicle,''

Section 1993 is a new criminal law that was added, as section 801, to the USA PATRIOT Act to punish terrorist attacks and other acts of violence against, inter alia, a ''mass transportation'' vehicle or ferry, or against a passenger or employee of a mass transportation provider. I had urged that this provision be included in the final anti-terrorism law considered by the Congress. A similar provision was originally part of S. 2783, the ''21st Century Law Enforcement and Public Safety Act,'' that I introduced in the last Congress in June, 2000 at the request of the Clinton administration.

The district court rejected defendant Reid's arguments to dismiss the section 1993 charge on grounds that (1) the penalty provision does not apply to an ''attempt,'' and (2) an airplane is not engaged in ''mass transportation,'' ''Mass transportation'' is defined in section 1993 by reference to the ''the meaning given to that term in section 5302(a)(7) of title 49, U.S.C., except that the term shall include schoolbus, charter and sightseeing transportation.

Section 5302(a)(7), in turn, provides the following definition: ''mass transportation'' means ''transportation by conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter or sightseeing transportation.'' The court explained that ''commercial aircraft transport large numbers of people every day'' and that the definition of ''mass transportation'' ''when read in an ordinary or natural way, encompasses aircraft of the kind at issue here,'' *U.S.* v. *Reid*, CR No. 02–10013, at p. 10, 12 (D. MA, June 11, 2002).

Defendant Reid also argued that the section 1993 charge should be dismissed because an airplane is not a ''vehicle,'' The court agreed, citing the fact that the term ''vehicle'' is not defined in section 1993 and that the Dictionary Act, 1 U.S.C. §4, narrowly defines ''vehicle'' to include ''every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation *on land*.'' The emphasis in the original opinion.

Notwithstanding common parlance, the district court relied on the narrow definition to conclude that an aircraft is not a ''vehicle'' within the meaning of section 1993.

The new section 1993 was intended to provide broad Federal criminal jurisdiction over terrorist and violent acts against all mass transportation systems, not only bus services, but also commercial airplanes, cruise ships, railroads and other forms of transportation available for public carriage.

The bill the committee reports today would add a definition of ''vehicle'' to section 1993 and clarify that an airplane is a ''vehicle'' both in common parlance and under this new criminal law to protect mass transportation systems. Specifically, the bill would define this term to mean ''any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water or through the air.''

On June 20, 2002, less than two weeks after the bill was introduced, the Judiciary Committee favorably reported this bill for consideration by the Senate. I urge the Senate to act promptly and pass this legislation.

Mr. REID. I ask unanimous consent the bill be read three times, passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2621) was read the third time and passed, as follows:

S. 2621

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEFINITION.**

Section 1993(c) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.''.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, after consultation with the ranking member of the Senate Committee on Finance, pursuant to Public Law 106–170, announces the appointment of the following individuals to serve as members of the Ticket to Work and Work Incentives Advisory Panel:

Vincent Randazzo of Virginia, vice Stephanie Lee Smith, resigned, and

Katie Beckett of Iowa, for a term of 4 years.

## AUTHORIZATION OF LEGAL REPRESENTATION

Mr. REID. I ask unanimous consent the Senate proceed to S. Res. 291 submitted earlier today by Senators DASCHLE and LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 291) to authorize testimony, document production, and legal representation in United States v. Milton Thomas Black.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Madam President, a Federal grand jury in Nevada has indicated an individual on four counts of mailing a threaten communication and one count of transmitting a threatening communication in interstate commerce for a series of threats to kill public officials and others in written communications sent last year to the offices of Senators PATRICK J. LEAHY and ORRIN G. HATCH, among others.

The U.S. attorney has issued subpoenas for testimony at trial by employees on the staffs of Senators LEAHY and HATCH who received the communications and an employee on Senator HARRY REID's staff who had contact with the defendant. The testimony is necessary to establish the receipt of the threatening communications in Washington, DC.

This resolution would authorize the Senate employees to testify and produce documents in this case with representation by the Senate Legal Counsel.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas, in the case of United States v. Milton Thomas Black, Cr. No. S–02–016–PMP, pending in the United States District Court for the District of Nevada, subpoenas for testimony have been issued to Clara Kircher and Phil Toomajian, employees in the office of Senator Patrick J. Leahy; Donald Wilson, an employee in the office of Senator Harry Reid; and Katherine Dillingham and Craig Spilsbury, employees in the office of Senator Orrin G. Hatch;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate

may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Clara Kircher, Phil Toomajian, Donald Wilson, Katherine Dillingham, Craig Spilsbury, and any other employee of the Senate from whom testimony or document production is required, are authorized to testify and produce documents in the case of United States v. Milton Thomas Black, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent employees of the Senate in connection with the testimony and document production authorized in section one of this resolution.

## ORDERS FOR WEDNESDAY, JUNE 26, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, June 26; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 11 a.m. with Senators permitted to speak for up to 10 minutes each, with the first 30 minutes of the time under the control of the majority leader or his designee, and the second 30 minutes of the time under the control of the Republican leader or his designee; that at 11 o'clock the Senate resume consideration of the Department of Defense authorization bill; further that the live quorum with respect to the cloture motion filed earlier today be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I have been corrected. There will be some time left in the final block after the prayer and the pledge, and whatever time is taken up. That time—20 or 25 minutes—will be equally divided under the standard that we have used here on many occasions. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. REID. Madam President, cloture was filed today by the majority leader. Therefore, all first-degree amendments must be filed prior to 1 p.m. tomorrow, Wednesday.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until, Wednesday, June 26, 2002, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 25, 2002:

### DEPARTMENT OF STATE

DAVID L. LYON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FIJI, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNTIED STATES OF AMERICA TO THE REPUBLIC OF NAURU, AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF TONGA, AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TUVALU.

NANCY J. POWELL, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MICHELLE GUILLERMIN, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, VICE ANTHONY MUSICK.

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD H. CARMONA, OF ARIZONA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE FOR A TERM OF FOUR YEARS, VICE DAVID SATCHER, TERM EXPIRED.